

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.

8
9 Transcript of excerpt of
10 OPENING STATEMENTS
11 April 12, 2018
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1 THE COURT: All right. Good morning,
2 everyone. I appreciate everybody being here and
3 ready to go.

4 Let me go over a couple of things with
5 you. We do have all the jurors here, so Mr.
6 Swantner is here. They didn't report him to be
7 happy, but he is here.

8 He told Ms. Wild -- I talked to Ms. Wild
9 maybe about 10 minutes ago -- she's headed back to
10 Albuquerque this morning -- that he sent a letter to
11 the clerk's office, he says two months ago, that
12 outlined his problems with his work. I think we've
13 all looked at the questionnaire. I just can't
14 remember if he had a letter attached or not. Y'all
15 are shaking your heads "No."

16 Anyway, I think he's re-sent it, so I
17 should have it in a little bit. I'll look at it. I
18 don't see any problem with me reading it and
19 distributing it and filing it. I don't have it
20 right at the moment. I don't know if Ms. Wild is
21 needing to email it.

22 He then also -- last night, he sent some
23 emails about 6:00 and 10:00 -- Ms. Wild said she
24 skimmed them, and she thinks that probably I should
25 not see those right at the present time -- as you

1 know, Ms. Wild and Ms. Bevel don't share everything
2 that comes their way. That allows her to talk to
3 y'all, sometimes, and try to work out stuff without
4 it being ex parte. And the same way with him; I
5 don't know what he's saying.

6 So, again, when we get those emails, I'll
7 have Ms. Bevel look at those. Maybe, when Ms. Wild
8 gets back up there, they can consult and we can
9 figure out what to do with those. I don't know any
10 more about it than that. So we'll see what the
11 letter says, but as we probably know, the emails,
12 we'll kind of have to sort it out and see where he
13 is.

14 Is there anything we need to discuss
15 before we bring the jury in? Anything I can do for
16 you? Ms. Armijo?

17 MS. ARMIJO: Your Honor, I believe that we
18 had requested this to be moved, and we were told to
19 wait for Robert, that he was over there assisting.
20 And we waited, and he left.

21 THE COURT REPORTER: No, he's right here.
22 He's still here.

23 MS. ARMIJO: Oh, okay. So we need it
24 turned around. We can do it, but we were told to
25 wait.

1 THE COURT: All right. So Robert is here,
2 so he can do that while we're talking. Anything
3 else from the Government's standpoint we need to
4 discuss? Anything else I can do for you, Ms.
5 Armijo?

6 MS. ARMIJO: No, Your Honor. Thank you.

7 THE COURT: How about from the defendants?
8 Anything you need to discuss? Mr. Blackburn? Mr.
9 Davidson? How's your wife doing, Mr. Davidson?

10 MR. DAVIDSON: Thank you, Your Honor. It
11 looks like April is going to be a better month than
12 March.

13 THE COURT: I'm so glad. Good for you.
14 Would you like to be introduced right at the
15 beginning, anything along those lines? Would you
16 like me to call on you? What would you like to do
17 on that score?

18 MR. DAVIDSON: If you'd introduce me, that
19 would be fine.

20 THE COURT: All right. I'll indicate that
21 -- do you want me to say anything about why you
22 weren't here?

23 MR. DAVIDSON: That I had to be in
24 Albuquerque for medical appointments with my wife,
25 would be fine.

1 THE COURT: All right. I will try to put
2 it that way.

3 MR. DAVIDSON: Thank you, Your Honor.

4 THE COURT: I think everybody else here
5 has been introduced. I'm going to introduce --

6 MR. BLACKBURN: I don't know if Mr. Solis
7 was.

8 MR. SOLIS: I was not. But whatever your
9 choice is, your Honor.

10 THE COURT: Well, I saw you yesterday.
11 Did we not --

12 MR. SOLIS: That's fine.

13 THE COURT: Let me introduce you, as well.
14 Carol, do you want to get them lined up so
15 they'll be in order?

16 (The jury entered the courtroom.)

17 THE COURT: All right. Everyone be
18 seated.

19 Good morning, ladies and gentlemen. I
20 appreciate you being back and ready to go and on
21 time. And I appreciate counsel and the parties
22 doing the same. That's a good way for us to start,
23 by being on time.

24 Before we begin opening arguments, let me
25 introduce you to a few new people.

1 Mr. Blackburn had mentioned to you earlier
2 in the week that his co-counsel, Scott Davidson,
3 would be joining him today to represent Mr. Arturo
4 Garcia. Mr. Davidson's wife has had some rather
5 challenging health problems, so he was down there a
6 little bit earlier in the week with her on some
7 medical issues. So we're glad to have Mr. Davidson
8 with us today.

9 And also, just one paralegal down from him
10 is Ed Solis. Mr. Solis was here yesterday and was
11 not introduced as co-counsel with Mr. Granberg for
12 Mr. Christopher Chavez. So we're glad to have Mr.
13 Solis here.

14 And my law clerk just returned from
15 Washington, D.C., where he was sworn in, and they
16 require him to have an ethics exam. So he's good
17 and ethical today, after doing his ethical reviews
18 for the D.C. Law. Brendan Hammond grew up in
19 Albuquerque, went to Albuquerque Academy, then went
20 to University of Denver, then Georgetown Law School.
21 He had a gap year, before he started clerking with
22 me, with a Washington, D.C. law firm. But now he's
23 back in New Mexico with me for a year, and he's
24 rethinking about going to D.C. But he's got one
25 foot there and one foot back in New Mexico, so we'll

1 see if green chile wins.

2 All right. Ms. Armijo, do you have an
3 opening statement for the Government?

4 MS. ARMIJO: Yes, Your Honor.

5 THE COURT: Ms. Armijo.

6 MS. ARMIJO: Counsel. May it please the
7 Court.

8 THE COURT: Ms. Armijo.

9 MS. ARMIJO: Loyalty, honesty, respect,
10 death. The words of defendant Arturo Garcia, a
11 leader in the Sindicato de Nuevo Mexico. Those
12 words mean a lot more than just plain words written
13 on a piece of paper that he wrote. The Sindicato de
14 Nuevo Mexico, or the SNM, as you will hear, is the
15 largest prison gang in the New Mexico Corrections
16 Department history.

17 The SNM is about respect, power, and
18 control. The only way to ensure that the SNM
19 maintains all those things is through one thing, and
20 that one thing is violence, unadulterated violence
21 that sends a message to all to hear it. During the
22 course of this trial, you will hear testimony about
23 how the SNM was borne out of one of the bloodiest
24 prison riots in United States history. In the 1980s
25 it gained in numbers until it eventually became the

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1 largest prison gang in New Mexico, controlling the
2 prisons through acts of violence, acts of extortion,
3 and controlling the drugs.

4 The SNM ran the prisons, in part, because
5 of their large numbers. New Mexico Corrections
6 Department had to do something to try and gain
7 control and get ahold of things. They created a
8 special security threat group, a special unit
9 designed specifically to deal with prison gangs.
10 They created a system to validate prisons gangs and
11 to officially recognize them as a security threat
12 group. And the SNM was validated because things
13 were simply out of control.

14 The violence raged on over the decades,
15 and Corrections would do the best they could do to
16 control it, but they were fighting a losing battle
17 as the violence went on. And the SNM would continue
18 to thrive, building its empire over the years. Like
19 any organization, it has a structure. And like any
20 organization, it has fluctuated over time.

21 But throughout the decades, there are
22 certain groups that have always been in:
23 Associates, or non-gang members, who associate with
24 the gang and help the cause. Prospects, who are
25 persons that are interested in becoming members.

1 Soldiers, members that commit the violence, at the
2 request of the leaders, to enforce the rules.
3 Hitters, members that were successful in trafficking
4 drugs in the SNM, for the SNM, and supplying members
5 with drugs, as well, and also using drugs as a means
6 of controlling people, including correctional
7 officers. Keyholders, and you will hear about
8 persons at different facilities that were in
9 control, calling the shots, so to speak, at each
10 different facility. And, of course, the main
11 leaders.

12 As with any organization, throughout the
13 years there are always factions, but the main goals
14 of the SNM have never wavered -- respect through
15 violence, and control through drugs.

16 Like any other organization, the SNM has
17 its rules. For the most part, at least one person
18 has to bring you into the gang and stand up for you,
19 to vouch for you. You cannot -- cannot -- have been
20 a member of a rival gang in the past. You have to
21 do work for the gang or earn your huevos, so to
22 speak. And by that, you have to be willing to
23 commit acts of violence at any time in the name of
24 the gang.

25 This is true even if you are out on the

1 streets. Just because you are released from custody
2 doesn't mean your membership ends. You still have
3 to put in work on the streets, whether that be drug
4 activity, such as trafficking drugs to assist the
5 gang; hitting or killing other rival gang members on
6 site; taxing or extorting drug dealers; and making
7 certain that you are not in any way disrespected.

8 Because once you are an SNM Gang member,
9 you are a member for life; blood in, blood out.
10 Which means every reflection on you is a reflection
11 on the gang. When you become an SNM Gang member,
12 you live by their laws. They're not society laws.
13 The leaders of the SNM are your Gods, and SNM is
14 your religion, inside and out of prison.

15 And you will also hear testimony that
16 there is no morality in the SNM, other than
17 enforcing their own rules; making sure members
18 adhere to the rules; making sure there aren't any
19 weak links; and making sure nobody disrespects them.

20 Violations of these rules will get you
21 killed. Cooperation of any type will get you
22 killed. Being a member of any gang -- being a rival
23 of any gang member gets you killed. And
24 disrespecting an SNM Gang member, which is a
25 reflection on the SNM, gets you killed.

1 And you will hear testimony that the SNM
2 has no problem enforcing these rules, even if it
3 means you've killed your good friend, your brother,
4 your carnal. The rules are the rules, and you must
5 pay for any violation, and you will hear that people
6 have paid with their lives.

7 You will hear about four different murders
8 in this case, all committed in the aid of
9 racketeering activity; in other words, in the name
10 of the SNM. And I believe that during the course of
11 voir dire, you heard a lot about that, how these
12 just aren't regular crimes; they're crimes that are
13 committed in the aid of the racketeering activity.
14 The racketeering enterprise in this case is the
15 Sindicato de Nuevo Mexico.

16 Now, the New Mexico Corrections Department
17 has several facilities all over the state. You will
18 hear about some of those prison facilities in
19 particular. There is the Penitentiary of New
20 Mexico, or PNM, up in Santa Fe. And within PNM,
21 there is a North facility and a South facility. And
22 there is also the Southern New Mexico Correctional
23 Facility. Southern New Mexico Correctional
24 Facility, or Southern, is located in Dona Ana
25 County, outside of the city limits, the City of Las

1 Cruces limits. It is really a compound of different
2 buildings, different units that house inmates within
3 that unit.

4 In early March, 2001, defendant Billy
5 Garcia, a leader in the SNM, went to Southern with a
6 mission, to have two members murdered at the same
7 time. Rolando Garza and Frank Castillo, SNM Gang
8 members, murdered by the hands of their own carnals,
9 strangled to death for alleged violations of SNM
10 rules.

11 Two murders on the same day. The SNM was
12 sending a message, a message that would be
13 understood by all, a message that said power,
14 respect, and fear.

15 The Paul One Unit and the Ocean One Unit
16 are close in proximity to each other. They are --
17 and they housed member of the SNM at that time in
18 2001.

19 SNM member Rolando Garza, also known as
20 Looney, discovered in his cell in the Paul One Unit
21 at approximately 8:30 a.m. by correctional officers.
22 He was face down on his bed, made to look like he
23 was sleeping. Rolando Garza was murdered by SNM
24 members for breaking the rule of belonging
25 previously to a rival gang. You will hear about how

1 one of their sworn enemies is the Los Carnales.

2 SNM member Frank Castillo, also known as
3 Pancho, discovered in his cell in the Ocean One Unit
4 at approximately 9:00 a.m. by correctional officers,
5 half an hour after Rolando Garza was discovered. He
6 was in a different unit, lying face down on his bed,
7 with the appearance that he was sleeping. Castillo
8 was murdered at the direction of defendant Billy
9 Garcia, as well.

10 And as an SNM Gang member, you have the
11 power to make others do what you want; and as an SNM
12 leader at the time, members had to follow his
13 orders.

14 New Mexico State Police was called out.
15 Despite efforts to determine who killed Castillo and
16 Garza no arrests were made in the investigation, but
17 there were a few things that were known for certain.
18 Both were murdered by strangulation, and both were
19 members of the SNM. And it obviously was a
20 calculated event.

21 The law enforcement got a break in 2007,
22 six years later. SNM member Leonard Lujan was
23 pleading guilty to killing SNM member Felix
24 Martinez, who was known as Animal. Martinez had
25 been killed back in the late '90s by SNM Gang

1 members Leonard Lujan, Frederico Munoz, and Manuel
2 Benito on an order that came from the leader of the
3 SNM. Martinez had been strangled to death. And
4 that started what would become the MO for the SNM
5 for many years to come, including what happened to
6 Castillo and Garza.

7 Lujan had agreed to meet with law
8 enforcement and provided them with details about the
9 murders in 2001. Specifically, Lujan told police
10 that defendant Billy Garcia gave him orders to have
11 Frank Castillo and Rolando Garza murdered. Billy
12 Garcia wanted them killed on the same day, and he
13 wanted them both to be strangled to death.

14 At that time, defendant Billy Garcia, who
15 was known as Wild Bill, was a leader and would be
16 the one who would be able to ensure that the rules
17 would be followed, that the hits would occur.

18 And so in March of 2001, when defendant
19 Billy Garcia made his way down from -- down to
20 Southern from the Penitentiary of New Mexico, he did
21 exactly what he wanted to do. He did exactly what
22 he needed to do. He told Leonard Lujan to ensure
23 that Frank Castillo and Rolando Garza were killed
24 and needed to be killed by strangulation. So the
25 orders went out, and hit teams were assembled.

1 Rolando Garza was killed by Eugene
2 Martinez, defendant Allen Patterson, and defendant
3 Christopher Chavez, in his cell. And Frank Castillo
4 was killed by Angel DeLeon, defendant Joe Gallegos,
5 and defendant Edward Troup. You will hear from the
6 medical examiner that both homicide victims were
7 killed from strangulation.

8 On Father's Day, June 17, 2007, SNM member
9 Freddie Sanchez, also known as Fred Dawg, was
10 incarcerated in the 1-A pod of Southern New Mexico
11 Correctional Facility. He was found dead that day.
12 Freddie Sanchez had been left on his bed, after
13 being strangled, with the appearance he had been
14 sleeping.

15 Defendant Arturo Garcia, also known as
16 Shotgun, a leader in the SNM, had called the hit.
17 He wanted Freddie Sanchez to be killed. A one-time
18 leader in the SNM, it was believed that Freddie
19 Sanchez had violated the SNM rule of providing
20 information to law enforcement. For this, he was
21 killed by the SNM.

22 By this time in 2007, in order to kill a
23 member based on cooperation, you needed paperwork.
24 You needed proof that someone was actually
25 cooperating with law enforcement, to murder them.

1 So the paperwork was sent to Ben Clark, also known
2 as Cyclone, an inmate at Southern. Clark was a
3 member of the SNM who had a position with SNM that
4 enabled him to make certain that defendant Arturo
5 Garcia's orders were in fact carried out.

6 And they were carried out on that weekend
7 by defendant Edward Troup, who is also known as
8 Huero Troup, Javier Alonso, who is also known as
9 Wineo. Freddie Sanchez was strangled to death,
10 again at the hands of his alleged carnals, while
11 Ruben Hernandez covered the camera. Freddie
12 Sanchez's body wasn't discovered until late Sunday
13 morning.

14 And so six years after the Castillo and
15 Garza murders, the SNM used strangulation once again
16 to send a message to all.

17 But the importance of power and respect of
18 the SNM is not limited to the prison walls. It
19 extends to the streets, which means that violence
20 that is needed -- that is needed for the respect and
21 power extends to the streets. Which brings us to
22 some of the remaining counts.

23 Adrian Burns. On November 12 of 2012,
24 Adrian Burns was a drug dealer in the Belen and Los
25 Lunas area, and he supplied drugs to defendants Joe

1 and Andrew Gallegos. Specifically, he commonly
2 supplied them with heroin. His body was found dead
3 near a river. The vehicle he was driving had been
4 torched, and his body was found outside of it on the
5 ground, partially burned and handcuffed.

6 Prior to being murdered, Burns was not
7 happy with the fact that defendants Joe and Andrew
8 Gallegos owed him money for the drugs that he had
9 been selling them. And he even told a friend of
10 theirs, just two days before he was killed, to stop
11 buying drugs on their behalf. Little did he know
12 that by disrespecting defendants Joe and Andrew
13 Gallegos, both SNM Gang members, would be a death
14 sentence to him.

15 On Monday, November 12, 2012, in the
16 evening, Adrian Burns left his home to go to the
17 Gallegos residence in Los Lunas to pick up money
18 that they owed him and to deliver drugs to them.
19 This was highly unusual, because Burns would never
20 go to the Gallegos residence to do any type of drug
21 transaction. Normally, they would meet in public
22 places. So it was something that was very unusual.

23 But Adrian left and was never seen again
24 alive. His girlfriend, Amber Sutton, was worried
25 about him. She started calling him frantically that

1 night, to no avail. And her worst nightmare came
2 true. She heard about a car that was on fire, in
3 the news, and she eventually drove to the scene.
4 Her car, that Adrian had left in that night, had
5 been torched, and Adrian was dead, his body
6 partially burned and handcuffed.

7 The medical examiner determined that
8 Adrian died of a gunshot wound to the head and that
9 his body was burned after he had been killed. The
10 investigation also revealed that Andrew Gallegos had
11 bought gasoline in the evening, and that after
12 Adrian was murdered, they were both bragging about a
13 movida, or a move that they had done, and they were
14 giving out drugs and money in celebration.

15 The Gallegos brothers went on the run, and
16 they were eventually arrested in Albuquerque a few
17 weeks later at a motel, in early December. Both
18 Gallegos brothers were interviewed by New Mexico
19 State Police, and they both admitted that Adrian
20 Burns had been over at their house that evening.
21 Adrian Burns, unfortunately, had committed the crime
22 of disrespecting defendants Joe and Andrew Gallegos,
23 SNM members, and he paid for it with his life.

24 On March 15th of 2015, SNM Gang member
25 Jose Gomez was chased down by defendant Joe

1 Gallegos. Prior to this, defendant Joe Gallegos
2 told Jose Gomez that he had put a green light out on
3 him by the S. And you will hear that the SNM is
4 sometimes referred to as the S. A green light is an
5 order that means to hit, to kill somebody, or to
6 badly beat up. In most instances, it means to kill.

7 Defendant Joe Gallegos had felt
8 disrespected by Jose Gomez. And Jose Gomez, who
9 himself was a member of the SNM, had challenged him
10 and told him that he would need to get approval;
11 that he didn't have the power to do that. But Joe
12 was insistent that he needed to be hit. The dispute
13 was over something trivial in the eyes of Jose
14 Gomez, but not to defendant Joe Gallegos, and he
15 used the power of being an SNM member to get it
16 done.

17 And eventually, it would get done, as far
18 as him being attacked. Jose Gomez was stabbed in
19 the hand by Joe Gallegos, but he managed to escape
20 from him. And that was on March 15th of 2015.

21 Defendant Joe Gallegos was arrested on
22 this case on December 3rd of 2015. The charges were
23 related to his activities in the SNM. Specifically,
24 he had been charged with a violent crime in aid of
25 racketeering murder of Frank Castillo that had

1 happened in 2001, which caused a great deal of
2 concern for him, so much so that he wanted to try
3 and mitigate any damage that Jose Gomez would do to
4 him, especially as it related to his federal charge.

5 And so on February 27, 2016, Jose Gomez
6 was attacked by defendant Joe Gallegos' associate.
7 Brandy Rodriguez, who was like a daughter to Joe
8 Gallegos, Paul Rivera, who was known as Oso, and
9 Santos Gonzalez, the three of them went to the house
10 that Joe Gallegos was at, armed with a machete and a
11 baton, to kill Jose Gomez.

12 After being told by Shauna Gutierrez, who
13 was then, at that time, defendant Joe Gallegos'
14 girlfriend, where he was located -- and, in fact,
15 they even borrowed her vehicle to go to the
16 location -- the three took a machete specifically to
17 use on Jose Gomez, and it was used on his head.
18 They told him, "The S has a green light on you, and
19 you are fucked if you go back to the pita, and you
20 better not testify against Joe Lawrence." They also
21 told him, "This is for my jefe."

22 Fortunately, Jose Gomez was able to escape
23 from the vicious attack.

24 So in this trial, you will hear about the
25 violence that the SNM thrived on. You will hear how

1 it was a necessary evil to obtain their power, their
2 control, and, most importantly, to be respected by
3 all. You will be deciding whether these defendants,
4 all SNM Gang members, are guilty of committing
5 violent crimes in aid of racketeering; in other
6 words, committing these violent acts to increase or
7 maintain their position within the SNM.

8 In proving the Government's case, you will
9 hear from a variety of witnesses. You will hear
10 from law enforcement investigating the crimes,
11 witnesses to the events, and from several SNM Gang
12 members, numerous SNM Gang members.

13 Some of these gang members have been
14 charged, along with the defendants, by the federal
15 government and have pled guilty. And no doubt, as
16 you heard in voir dire, they are hoping that by
17 assisting the Government in this case, they will
18 receive some type of leniency by the Judge
19 sentencing them. And some of them, it has been
20 difficult to leave old habits such as using drugs.
21 Leaving that old lifestyle is difficult.

22 But you will be the judges of the evidence
23 in this case. You will be the ones to compare
24 everything that you hear, everything that you see,
25 and review all the evidence to determine the facts

1 in this case. At the end, we will ask you to hold
2 the defendants liable for the crimes they have
3 committed, and we will have proven these charges
4 beyond a reasonable doubt. Loyalty, honesty,
5 respect, death.

6 THE COURT: Thank you, Ms. Armijo.
7 Before, I should have asked: Does either side wish
8 to invoke the rule in this case?

9 MR. SINDEL: Yes, Your Honor.

10 THE COURT: All right. It's a rule of law
11 that witnesses may be excluded from the courtroom so
12 that they cannot hear the testimony of other
13 witnesses. This rule does not apply to parties or
14 expert witnesses. The rule of exclusion has been
15 invoked in this case, and all witnesses to whom the
16 rule applies will be required to remain outside the
17 courtroom until they are called to testify.

18 Witnesses excluded from the courtroom
19 should not discuss with other witnesses their
20 testimony before they or the other witnesses
21 testify, but they may discuss their testimony with
22 the lawyers.

23 All right. Mr. Castle, do you have an
24 opening statement for Billy Garcia? Mr. Castle.

25 MR. BLACKBURN: Your Honor before Mr.

1 Castle starts, we're having monitor problems over
2 here.

3 THE COURT: Let me see if I can get Robert
4 in here to work on that. Is he here? We'll get him
5 in here. Mr. Castle.

6 MR. CASTLE: May it please the Court.

7 THE COURT: Mr. Castle.

8 MR. CASTLE: Counsel for the Government.
9 Counsel for the co-defendants. Billy Garcia, one of
10 the defendants. We respect the families of Mr.
11 Garza and Mr. Castillo, and the jury.

12 My name is Jim Castle. I am one of the
13 attorneys for defendant Billy Garcia who you just
14 heard about and who the Government is accusing of
15 two violent murders. A lot of what I'm going to
16 talk about is the same things that Ms. Armijo just
17 got done talking about. There's lots that are not
18 in dispute in this case.

19 The murder happened 17 years ago. And
20 you're going to hear why it took so long, if ever,
21 to charge people. It happened on the same exact
22 date, at the same exact time, at the Southern New
23 Mexico Correctional Facility. The two bodies were
24 found the next morning. They had the exact same
25 manner of death. It was strangulation.

1 Mr. Castillo was found in the green pod.
2 He was an SNM member. And the reason I show you, he
3 has the initials of SNM. That's Mr. Castillo.
4 That's a part of him. And you're going to see worse
5 pictures, unfortunately.

6 Mr. Garza was found in the yellow pod. He
7 was also strangled, and he also had the markings of
8 an SNM member on his body.

9 They were both found in almost an
10 identical fashion. They weren't found exactly like
11 this. I think some of the sheets may have been
12 pulled up over them to kind of hide things from the
13 corrections officers. The perpetrators of these
14 murders were trying to hide it as long as possible.

15 They're both exact same cause of death,
16 ligature strangulation. A ligature is something
17 that cuts off your breathing. Oftentimes, it causes
18 death, not necessarily by cutting off the breathing,
19 but by other actions that you might hear about from
20 the pathologist in this case.

21 The New Mexico State Police were assigned
22 to the investigation, and they did an extremely
23 thorough job. You will hear about what they did,
24 and how they went about their work. During the
25 autopsy they took fingernail scrapings, and the

1 reason they do that is because oftentimes when
2 people are being attacked, they struggle and will
3 scratch their perpetrators. They did DNA swabbings.
4 Y'all have probably heard about DNA. You're going
5 to hear more about it in this trial. And the reason
6 they take DNA swabbings is to see if someone has
7 been in contact, physical contact with somebody, so
8 they can identify who it is that's the perpetrators.

9 They process these cells for trace
10 evidence. Trace evidence can be anywhere from like
11 a hair. If someone is struggling with someone while
12 they're in the process of killing them, they may --
13 they have loose hairs. We all know when we brush
14 our hair and comb our hair in the morning -- some of
15 us, when we're older, we have a little bit more hair
16 in our brush. But that can fall off while we are
17 struggling with someone. And they processed it for
18 that, as well.

19 And the analyses, what they did was, they
20 went and they got the DNA samples of anybody who
21 were in the two cell blocks that were -- that could
22 have possibly done this. Because when you hear
23 about the prisons, they have different areas,
24 different cell blocks. They're often called pods.
25 And they keep different inmate groups in different

1 pods. They shut doors at night, and nobody comes in
2 and out except for corrections officers.

3 So they knew that whoever committed these
4 murders was likely to have been in those pods. So
5 they got the DNA of all those individuals, and they
6 then -- in fact, all the individuals that are on
7 trial here, they compared that DNA to the evidence
8 that the police, that the New Mexico State Police
9 found, and absolutely none of it matches any of the
10 defendants that are on trial here.

11 They interviewed corrections officers,
12 because corrections officers are there for a number
13 of reasons. They're there to protect, they're there
14 to keep the peace, and they're there to observe. So
15 if something happens wrong, and there is a trial,
16 they can come in here and testify. But also, so
17 they can report it. They have reports that they are
18 required to fill out, especially after something
19 like this. You can imagine. And they fill those
20 out. And none of the corrections officers reported
21 seeing any of these defendants doing anything
22 unusual, pointing towards their involvement.

23 And, in fact, what you're going to find
24 out in this case is there is absolutely no
25 corroboration. What I mean by "corroboration" is

1 facts that prove what someone says, as opposed to
2 just their words. There will be no evidence
3 whatsoever that corroborates the theory that the
4 Government just told you.

5 Now, there was corroborating evidence that
6 indicated this was an SNM murder. Now, one would
7 think that if you found two members of a prison gang
8 dead, that it might be another prison gang that
9 committed the murders. But what the New Mexico
10 State Police realized is that that wasn't the case.
11 Because what happens, if that happens, is that then
12 there is a gang war, because one gang doesn't just
13 let that happen to their people. They retaliate.

14 There was no retaliation, so that was one
15 of the things that properly led the New Mexico State
16 Police to the conclusion that this was an SNM murder
17 of their own, two of their own members.

18 If I could have a little help? There's
19 apparently some kind of marking. Maybe my hands
20 were flying around, I think. I'm an Irish guy, and
21 usually I don't move my hands that much; but I'm
22 married to a Cuban woman, and I've learned over the
23 years to kind of move my hands around a little bit.
24 Well, I'm sure you can overlook that. It's a little
25 color we can all use in our lives.

1 There was other things they learned. They
2 believed that Mr. Castillo, one of the victims, held
3 a high rank within the SNM organization and
4 facility, and there was a possibility he was killed
5 as a rival who wanted to eliminate competition.

6 What you're going to hear about the SNM
7 is, they're not all -- you can't paint with a brush;
8 you can't take that brush and paint all SNM members
9 the same. It's just done -- I mean, you're going to
10 hear there's over 1,000 SNM members over the years.
11 There's not 1,000 murders, believe me.

12 But what you are going to hear is that
13 there were rivalries within the gang, because some
14 people wanted to be a higher person, just like in
15 Game of Thrones or things that we see, and we read
16 about in fiction, and in actual real life. There
17 are rivalries that happen within a gang. And Mr.
18 Castillo held a high rank, and so that was one of
19 the reasons that it looked like this might be an
20 SNM-related murder.

21 Both Mr. Garza and Mr. Castillo were
22 critical of the current leadership at the Southern
23 New Mexico Correctional Facility. And you're going
24 to hear about the leaders in a few minutes. But
25 they were critical. Just like any organization,

1 there are people that don't like the way things are
2 being run, they don't like the leaders, and they
3 want to be the leaders, and they want to run things.

4 They also learned that Mr. Garza
5 apparently had -- at least the rumor was, around the
6 time, Mr. Garza had formerly been a member of a
7 different gang, Los Carnales. And that's a no-no in
8 all the prison gangs. You have to choose one or the
9 other; you can't be both. And the reason is that
10 the gang members worry that you're not really loyal
11 to them; that you're loyal to someone else.

12 And there was rumors that Mr. Castillo was
13 what was called a snitch. And I use that word not
14 because I'm trying to be derogatory. That was the
15 term that the inmates were using at the time. So
16 all of these facts led the New Mexico State Police
17 to the proper conclusion that it was likely to have
18 been an SNM murder or pair of murders committed by
19 an SNM member or a series of members.

20 Now, they also knew that there had been a
21 recent split, a very deep split in the SNM between
22 followers of a person you're going to get to see
23 here in this Court as a witness for the Government,
24 an individual by the name of Gerald Archuleta.

25 And I have to apologize for the quality of

1 our photos. Our photos come from photocopies that
2 the Government provides, and so they may have a
3 better picture of him later, but I have to
4 apologize.

5 But there had been a recent split. In the
6 summer of 2000, so approximately six months prior to
7 these pair of murders, Mr. Archuleta was in prison
8 on a new -- or put in jail on a new crime that he
9 had committed. And at the same time, Julian Romero,
10 the other big leader in the SNM at the time, he got
11 out and he stayed with Mr. Archuleta's wife, and
12 they became romantically involved. And Mr.
13 Archuleta wasn't just unhappy; he was intent on
14 murdering Julian Romero.

15 And that rivalry, that split, didn't just
16 stay between Gerald Archuleta and Julian Romero. It
17 split the SNM. Those that were loyal to Mr. Romero
18 went one way; those that were loyal to Mr. Archuleta
19 went the other way. And Mr. Archuleta and his gang,
20 group of gang members you'll hear about, wanted to
21 eliminate and kill Julian Romero and his followers.

22 Mr. Garcia, Billy Garcia, this man over
23 here, was an SNM member. And I say "was" because he
24 isn't now. And he was a follower of Julian Romero
25 at the time these murders happened. That's not

1 going to be in dispute.

2 The New Mexico State Police took all the
3 evidence they collected, all the information, and
4 all the reports, all the interviews, everything they
5 had, and they went to the district attorney, Susana
6 Martinez -- who is not in that role anymore; she's
7 governor -- and she looked it over, and after
8 reviewing all the evidence, her office declined to
9 prosecute, based upon lack of evidence and inability
10 to convince any jury of anyone's guilt.

11 In 2001, the FBI actually got involved in
12 looking into these two murders, and the reason is,
13 the FBI, part of their charge is not only to look
14 solely upon what we normally consider federal
15 concern, such as terrorism and things of that
16 nature, but also prison gangs or any kind of
17 organized gang. That is one of their charges, and
18 it's a proper charge.

19 And they started looking into this, these
20 pair of murders, along with other actions and
21 activities of the SNM prison group. And they didn't
22 just work alone. They worked in concert with local
23 and state authorities, and they formed necessary
24 task forces. You'll find out that the FBI has task
25 forces -- I'm sorry, I stumbled on the words a

1 little bit -- all over the country, where they work
2 with local and state officials cooperatively to try
3 to solve problems that are both a state and federal
4 concern. And so they had one that was down here in
5 Las Cruces, and they also had one up in Albuquerque.
6 Both of them worked to some degree, off and on, from
7 2001 to the present on these two murders.

8 Ms. Armijo is correct. In 2007 there was
9 a new development, and what it was is that there was
10 a cold case. It was a really ugly murder that
11 happened up in one of the jails up in Albuquerque,
12 and it was a very similar murder. It was a
13 strangulation of a person by the name of Felix
14 Animal Martinez. Animal was his nickname, and we
15 often use these nicknames. You heard the Government
16 read a bunch of people they were going to call, and
17 they had a nickname in the middle. They weren't
18 trying to be derogatory to these individuals, nor am
19 I. It's because a lot of the witnesses will only
20 use that name, so we will constantly put those in
21 there.

22 A lot of these names are going to be hard
23 for you to understand, because you're going to be
24 hearing hundreds of names, so you'll need
25 assistance. I don't mean anything derogatory by

1 putting in that name.

2 Mr. Felix Martinez was murdered back in
3 1998. So here, nine years later, the Albuquerque
4 police were still willing to try to figure out who
5 killed this person. Mr. Martinez was an SNM Gang
6 member, just like Mr. Castillo and Mr. Garza. The
7 cause of death for him was ligature strangulation.

8 And in 1998 you'll hear that this was a
9 new kind of form of murder that they hadn't seen in
10 the prisons or the jails before. It was a new kind
11 of way of killing. And it was this ligature
12 strangulation, just the way Mr. Castillo and Mr.
13 Garza were killed three years later.

14 And they concluded there must be a link
15 there, a link between the murder that happened in
16 1998 and the two in 2001. And they were right.

17 So what happened is, they developed an
18 informant, someone at the jail who -- that was a new
19 development, is they developed an informant who says
20 that there were two other SNM leaders, an individual
21 by the name of Leonard Lujan. I think you saw a
22 picture, a little clearer picture when the
23 Government presented theirs. We're going to try to
24 talk about folks and put their picture up so you can
25 try to remember who it is.

1 But this informant told them that Mr.
2 Lujan and a person by the name of Frederico Munoz,
3 also known as Playboy -- that was a nickname he gave
4 himself -- that they had murdered Mr. Martinez. But
5 there was a problem. I'll go back here a second.

6 Mr. Munoz, the one here on your left, had
7 already been working with the Albuquerque police as
8 an informant. He was one of their informants. So
9 here, they had evidence that one of their informants
10 they'd been working with had murdered someone in
11 1998. That was a problem. And this was -- Mr.
12 Munoz not only was an informant, but he wanted to
13 continue to work for the FBI. He wanted to work for
14 not just the state, or the police, but the Federal
15 Bureau of Investigation, and he met with FBI
16 officials.

17 Now, the problem here that you're going to
18 hear is that when someone begins to work with either
19 the state or the federal government and police
20 agencies, they're required to sign a contract or at
21 least make a verbal agreement about that they're not
22 only going to provide information; they're going to
23 stop committing crimes, and they're not going to --
24 you know, they also have to come clean on anything
25 that they have done. You have to spill your beans.

1 Okay?

2 Well, obviously Mr. Munoz hadn't spilled
3 the beans, because he started working for the FBI,
4 or at least the state officials, in 2002, and hadn't
5 told them that four years earlier he had killed
6 Mr. Felix Martinez. So this was a problem.

7 And it was an even bigger problem because
8 the FBI had interviewed Mr. Munoz back in 2002, and
9 what they had in their reports is that Mr. Munoz
10 lies to them, and he shifts the blame to somebody
11 else. He says that Mr. Felix Martinez was
12 strangled, and that the hit came from somebody by
13 the name of Milan, last name unknown -- LNU, that's
14 what that stands for -- and that he was carried
15 through -- it was carried through by three
16 individuals. One individual held Martinez down
17 while the other two strangled him. Mr. Frederico
18 Munoz says he didn't witness it, but heard rumors.

19 Now, you're going to find out that this is
20 a murder that Mr. Munoz committed himself, and
21 you're going to hear his own words here in a minute,
22 or read his own words. And here he is -- when he
23 talked to the FBI, he lied and pointed the finger at
24 someone else, somebody by the name of Mr. Milan, who
25 luckily was never prosecuted based on the word of

1 Mr. Munoz.

2 So at that point they go back to their old
3 informant, Mr. Munoz, and tell him -- you know, ask
4 him, "Did you commit the murder?" And then they
5 went to Leonard Lujan, "Did you commit this murder
6 of Mr. Martinez?"

7 Because they only had an informant at this
8 point.

9 Both of them said, "No, no, I didn't do
10 it. I didn't do it."

11 And they go back, and they talk to another
12 witness at the jail, a man by the name of Mark Lugo,
13 and you're going to get to hear from him. Mr. Lugo
14 is not in very good health, he's near death, but he
15 wants to have his story told. And he wasn't
16 affiliated with the SNM. He was just a person in
17 the jail who had done something wrong; I'm not sure
18 what. But he was doing his time. But he happened
19 to have been put in the same cell with Leonard
20 Lujan, and he was there when Felix Martinez was
21 murdered.

22 And he tells the police, "I know who
23 killed Mr. Martinez. I know my roommate, my
24 cellmate at the time, Leonard Lujan, was part of it.
25 I heard it. I heard it happening. Mr. Lujan came

1 back to our cell and thought I knew that he had
2 killed or participated in the killing of Mr.
3 Martinez, and he threatened me not to tell."

4 He not only did that. To show Mr. Lugo
5 that he was serious, he raped him and told him more
6 of that was coming.

7 When the police talked to Mr. Lugo in
8 2007, the reason he came forward was because, if you
9 notice, the police had gone to talk to Lujan and
10 Munoz at the jail and asked if they did it, and they
11 denied it. Well, that triggered something in Mr.
12 Lujan's brain. Somebody must be talking. Somebody
13 must have said it.

14 And he went right back to Mr. Lugo, who
15 was again back in jail at the same time, not
16 cellmates anymore. And he goes up to Mr. Lugo and
17 says, "You're snitching on me, you must have been
18 the one," and scared Mr. Lugo. That's why he came
19 forward. He had kept his secret all these years
20 because he was deathly afraid of Mr. Lujan and his
21 cohorts.

22 As I said, Mr. Lujan confronts him and
23 tells him, "Remember what happened to you the last
24 time. It will happen again if you talk." So
25 Mr. Lugo goes to the police.

1 So the police go and talk to Munoz. He
2 had been their informant before. Actually, before
3 they talked to him, they went and tested the bed
4 sheets that they originally had pulled from the cell
5 in 1998, and they put it to the test of some new DNA
6 analysis. DNA analysis has developed over time.
7 It's gotten better and better and better.

8 And they found out that they had a match
9 to Mr. Munoz and Mr. Lujan. Because the word of Mr.
10 Lugo wasn't enough, or the previous informant wasn't
11 enough; they wanted hard evidence. And they went
12 back and tested it. And guess what? What Mr. Lugo
13 told them was the truth. What the previous
14 informant told them was the truth. Mr. Munoz's and
15 Mr. Lujan's DNA was on the sheets that were used to
16 strangle Felix Martinez.

17 So they go back. The police believed
18 there were at least three people involved in the
19 killing of Mr. Martinez. They wanted all three.
20 Who blames them? You want all three that committed
21 a murder like that. And so they go back and they
22 talk to Munoz, and they say, "Look, we'll give you a
23 deal." Mr. Munoz was already serving a very long
24 sentence. So they said, "We'll give you what's
25 called a concurrent deal, which means the jail time

1 served on the murder, or whatever your new charge
2 is, runs the same length, the same time as the
3 other."

4 And they told Mr. Munoz, "We've got the
5 DNA on you. We already know you did it. Now will
6 you talk?"

7 And Munoz saw his opportunity. He cut a
8 deal for his concurrent deal, and he talks to them.
9 And he slowly, but not at first, implicates Mr.
10 Lujan. He starts saying, "I did it, but I'm not
11 going to want to tell you who else did it."

12 But that wasn't good enough for the
13 Albuquerque police, and it shouldn't have been.
14 They wanted the other two. And he eventually talked
15 to them, and during that interview in 2007, they
16 told Mr. Munoz once again, "You've got to come
17 clean. You've got to tell us everything you know
18 about the crimes, different events."

19 He doesn't mention anything about knowing
20 anything about the 2001 murders.

21 Then they go to Mr. Lujan. They already
22 had the confession and the evidence to point the
23 finger at Mr. Lujan from Munoz. They already had
24 the DNA. And they go to him and they say, "Look, we
25 want you to talk to us, but you have to understand,

1 just telling us you committed this murder in 1998 is
2 not enough because we already have the evidence on
3 that. You've got to give us something else."

4 And they said, and I quote, to Mr. Lujan,
5 "So understand, what you give us is gonna have to
6 really outweigh what we've got on you."

7 So Lujan tells him this story of the
8 murder that he put in motion in 2001, the murders
9 that Mr. Garcia is being accused of, and some of
10 these other men. And he tells them that he formed
11 two teams to murder Mr. Garza and Mr. Castillo. And
12 he tells them he used the same method, he designed
13 the same method that he and Mr. Munoz had used in
14 1998, the Lujan/Munoz method of murder of
15 strangulation.

16 And you'll hear his words. He's kind of
17 proud of being the ones that came up with this way
18 of doing it. And he talks, but he doesn't want to
19 take responsibility, so he blames someone else.

20 He says, "I was forced to do it. Even
21 though I got two teams of three to go and commit two
22 murders simultaneously, not really my fault at all.
23 Somebody made me do that. Somebody made me do
24 that." And he blames it on Mr. Garcia.

25 But he also leaves out some actors, really

1 important actors. He doesn't talk about who
2 actually wanted the murders. He doesn't talk about
3 who he actually got directions from. But we'll talk
4 about that in a little while. But he blames
5 somebody else. Okay? The old game of: I don't
6 want the responsibility; I'll blame somebody else.

7 And it worked for quite a long time. He
8 was never charged with these 2001 murders in 2007 or
9 in the subsequent eight years. It worked. In fact,
10 you'll hear that Mr. Lujan actually got out on the
11 streets, even though they knew that he'd committed
12 and put in motion two murders. He put out two hit
13 teams to kill two inmates at facilities, and he was
14 let out because he was helping.

15 So time goes by. The FBI continues their
16 investigation. They go to the United States
17 Attorney's Office and present it on numerous
18 occasions in 2008, all the way up to 2015. And each
19 time, the U.S. Attorney's Office said, "This isn't
20 good enough evidence. It's not quality evidence.
21 We can't rely upon Lujan. There's no physical
22 evidence that supports this case."

23 By this time, they'd already talked to an
24 individual -- not just Munoz, not just Lujan.
25 They'd talked to an individual by the name of Leroy

1 Lucero, who we're going to talk about in a few
2 minutes. And I believe they talked to another
3 person -- I can't remember who it is -- another one
4 of the witnesses you're going to hear get up on that
5 stand, with a long criminal record, and do their
6 part to get a lower sentence.

7 In March of 2015, the United States
8 Attorney's Office not only turned it down, but
9 decided they were going to put it in writing. They
10 stated -- they wrote a letter to the FBI, and it
11 said, "This letter will serve as notification to you
12 that the United States Attorney's Office is
13 declining prosecution of the above-referenced matter
14 due to insufficient evidence."

15 And you'll get to see this letter. It's
16 going to be moved for an exhibit and admitted at
17 trial.

18 "Please notify the appropriate individuals
19 within your agency of our decision. I thank you for
20 submitting this case to us for prosecutorial
21 consideration. I'm aware of your diligent efforts
22 on the investigation. I appreciate your hard work
23 and thorough investigation. In the end, however,
24 the evidence accumulated through your painstaking
25 efforts would likely not sustain a conviction."

1 "In particular" -- and you have to
2 understand, they're not saying they're not going to
3 catalog all the evidence they looked at, that was
4 given to them by the FBI. But they say, "In
5 particular, and as we previously discussed at
6 length, a federal prosecution of these homicides
7 would in large part hinge on the testimony of former
8 SNM member Leonard Lujan. Unfortunately, Mr.
9 Lujan's credibility is in serious doubt due to the
10 combination of his long and troubled criminal
11 background, his history of malingering" -- let me
12 stop here, because I'd never heard that word before
13 I became a lawyer. It's a legal term. Malingering
14 essentially means you're faking and lying about
15 medical or psychiatric conditions in order to get
16 something that you want. All right.

17 So he goes on. He says, "History of
18 malingering and otherwise manipulating the penal
19 system for personal gain."

20 We already heard, he got away with these
21 two murders for at least seven years without any
22 punishment.

23 "His receipt of past consideration" -- and
24 you're going to find out what that means.
25 Consideration means something you've been given to

1 cooperate, and we're going to hear about some money
2 he got.

3 And then, "ongoing demands for future
4 consideration" -- and you're going to hear that we
5 made a number of inquiries. No one remembers what
6 his demands for future consideration was, as of
7 March of 2015.

8 "As a quid pro quo" -- and that's another
9 term I'd never heard of before I became a lawyer.
10 It's a Latin term. Basically, it's like: I give
11 you something, and you give me something back. And
12 if you don't, you don't get what I got. Okay. "As
13 a quid pro quo for cooperation in this case, his
14 sustained use of narcotic drugs and a history of
15 mental health issues."

16 Now, this letter that you're going to hear
17 about, the only reason it ever surfaced in this case
18 was, about two weeks ago we got a letter. Lawyers
19 for Mr. Garcia subpoenaed some materials from the
20 United States Attorney's Office, and this surfaced.
21 Otherwise, we and you never would have heard about
22 this letter. But you're going to get it.

23 And they concluded this letter by saying,
24 "He is quite simply unusable as a witness because
25 all of these concerns would be fodder for what would

1 inevitably be a long and torturous cross-examination
2 that would leave him uncredible in the eyes of a
3 rational fact-finder."

4 Now, that is the person that the
5 Government is going to rest their case almost
6 entirely on, with direct evidence.

7 So why are we here? Something else
8 happened in March 2015. Right about the exact same
9 time that that letter goes out, something very scary
10 happened. New Mexico Corrections Department found
11 some letters that were being sent out of the prison.
12 They were being sent out by two of the Government's
13 witnesses that you'll get to hear from, and I'll
14 show you in a minute who they are. And those people
15 were literally sending out letters to SNM members,
16 that were still SNM members, but were out on the
17 streets, people that kept their gang affiliation and
18 decided to still be part of that gang once they got
19 out. And they were trying to solicit the murder of
20 the Secretary of Corrections. That's head of the
21 Department of Corrections, Gregg Marcantel, and the
22 deputy secretary of a group called the STIU. And
23 you're going to hear what the STIU is. It's
24 essentially the gang officers, the gang
25 investigators in prison. So the head and the deputy

1 secretary of the STIU, a man by the name of Dwayne
2 Santistevan.

3 And they were soliciting the murder of
4 these two people. They had a serious business.
5 Okay? I'm not trying to say that the killing of
6 each other is not bad, the killing of other SNM
7 members is not bad. But when you go outside the
8 walls and you are trying to murder two people who
9 are just trying to do their job for the State of New
10 Mexico, that's a matter not only of state concern,
11 but federal concern, absolutely everyone's concern.

12 And so the FBI went in motion. They
13 brought in Agent Acee, who hadn't been working on
14 the SNM. And you're going to get to meet him,
15 probably as the first witness in the case. They
16 brought him in, and they started investigating. And
17 the first aspect of this, they started investigating
18 the murder, the plot, because they wanted to get
19 everybody that was involved in that, and arrest
20 them, so they can eliminate the threat to these two
21 individuals and their families and anybody else that
22 they might be trying -- that these people were
23 killing.

24 One of the things they found, though, none
25 of these defendants were involved in that plot

1 whatsoever. Their name doesn't even get hinted at.
2 But they do collect some of these people, and they
3 arrest them. They cut some deals with a couple of
4 them. You're going to get to hear from a couple of
5 them. People who were trying to kill these two
6 individuals on the streets, you're going to get to
7 hear from them and the deals they cut.

8 And there is a decision made: We're not
9 going to just put up with this because, okay, if all
10 we do is arrest people for trying to do this plot,
11 that's not enough. We need to send a message.

12 So they decided: We're going to send a
13 message to the entire SNM Gang, anybody who was a
14 member or is still a member, because we want a
15 message to be sent not only to prison gangs here in
16 New Mexico, but across the country. We're going to
17 send a message that's really strong.

18 And I'm not going to come here ever and
19 argue that that's a wrong decision, to send a
20 message. We'll be arguing they've done it in the
21 wrong way in some instances.

22 So what did they do? They went out and
23 got some people wired up. You've probably heard
24 about -- maybe you've seen on TV shows and in real
25 life. What happens is, they'll put a wire on some

1 informant who's willing to work with them. They
2 went and did undercover buys. They did wiretaps.
3 That's where they get a court order to listen in on
4 someone's phone calls for a period of time, to see
5 if they're talking, confessing, and things like
6 that, or get readings. They recorded video of
7 people. They did controlled buys. That's where
8 they're buying drugs from people.

9 Because what their idea was -- it's a
10 really good one -- if you arrest people for drugs,
11 then they're desperate to get out of trouble, and
12 maybe they'll start giving some more information and
13 build a case that way. They actually introduced
14 some cellphones in prisons. There aren't cellphones
15 in prison -- there aren't supposed to be. But
16 occasionally, stuff gets smuggled into prison.

17 They brought in cellphones and gave them
18 to other inmates that were working with them, to be
19 able to call. But they also gave them little tape
20 recorders to tape-record other inmates so that they
21 could try to get them to confess. So you have one
22 inmate, you know, in the cell next to the other
23 inmate, and he says -- you know, they start talking,
24 and they start talking about like a crime that they
25 committed. And the idea is to try to get them to

1 confess. And that was successful.

2 You're going to hear in this case against
3 Mr. Garcia, there's no tape recordings that they
4 obtained. There's no controlled buys of any drugs
5 from him that they were able to get. They don't
6 have any of that with Mr. Garcia. But they did --
7 they tried this and caught a lot of people with
8 that.

9 And they would go up to these SNM members,
10 and they would give them an ultimatum. They had two
11 choices. And this is an example of it. This is a
12 task force officer, one of the people with one of
13 the task forces that the FBI was working with. This
14 was a correction person who is very instrumental in
15 this case. You're going to hear he was in on tons
16 of interviews with Agent Acee.

17 And he says -- and I have to say the
18 words. I'm not trying to be offensive, but these
19 are Mr. Meyers' words. He says, "It amazes me that
20 we've got people in this case that have point-blank
21 fucking killed people and they're on the street.
22 It's hard for me to wrap my mind around that because
23 I was used to tracking people down, hunting the guys
24 responsible, the individuals responsible, and
25 putting them in prison for the rest of their life.

1 Yeah, and they are not about that."

2 And what he's talking about is the feds.

3 "They are not about that. They are about
4 making sure the SNM is done. So you have an
5 opportunity, I'm telling you. You've got 30 people
6 on the street that have point-blank fucking killed
7 people, but because they got to the table" -- that
8 means bargaining table -- "and they took the
9 responsibility and they fucking helped us, they're
10 on the street. So you can be in that category or
11 you can be in the category of guys that are gonna
12 spend the rest of their lives in fucking prison."

13 So that choice was given to various SNM
14 members. Some said, "I'll work for the Government.
15 I'll put my family at risk in order to avoid my own
16 criminal responsibility." Others chose a different
17 path. They didn't talk. And it could have been for
18 a number of reasons. They didn't want to implicate
19 themselves, or they didn't want to implicate their
20 friends. Or it could be that they didn't want to
21 put their families at risk. "I'd rather face
22 criminal charges and even risk going to prison for
23 the rest of my life, but my family shouldn't ever,
24 ever, ever pay the price because I joined a gang a
25 long time ago."

1 You're only going to probably hear from
2 the ones that made a choice and said, "I'm going to
3 save part of my skin and get a lower sentence, and
4 hope to get out, and put my family at risk." You're
5 going to hear from them.

6 So they get this evidence about who was
7 killed or who was trying to plot to kill Mr.
8 Marcantel and Mr. Santistevan. And some of them
9 decided to cut their losses, and you're going to get
10 to hear from these guys. One of them is Sammy
11 Griego. He's there on your left. And the other one
12 is Robert Baby Rob Martinez. And I'll tell you a
13 little bit about them.

14 Part of opening statement is to give you
15 an introduction of what you're going to hear, and
16 you're going to hear a little bit about the
17 characters that are going to be taking the stand
18 here.

19 There are some other targets. And I'm
20 only showing you the people who are going to
21 testify. Other targets cut deals, as well, Mr.
22 Lovato and Gerald Archuleta. Others try anything to
23 avoid responsibility, and we can talk about them in
24 a minute. Eugene Martinez and Manuel Big Jake
25 Armijo, you're going to hear them get up here.

1 And every one of these guys, not a single
2 one of them said, "I'm going to do the right thing,
3 and I don't care what the consequences are to me."
4 Every one of them cut a deal where they had an
5 opportunity to cut their sentence. Not a single one
6 of them walked into the courtroom, like all of you,
7 swore to be honest with everyone without anything in
8 remuneration. Well, I guess you guys get \$40 a day,
9 but these guys, you'll hear that the operation here,
10 I think they gave \$70,000 of taxpayer dollars to
11 various cooperators.

12 So who are these guys, and should we
13 believe them? You know, most of us don't know
14 anybody who is doing time in the prisons. Okay?
15 Some of the people in prisons, they made a mistake
16 in their life and pay the price. Some of them are
17 con men. They're really smooth operators. Some of
18 them, throughout their whole life, have shown a
19 pattern of dishonesty through theft. Some of them
20 are what we all call psychopaths. They're charming.
21 They smile at you. They can convince people.
22 They're the people we hear sometimes can convince a
23 woman to do things that you can't understand why a
24 woman would ever do or put up with them. They're
25 that smooth. And you're going to hear from all of

1 these types of people.

2 So let's talk about who you're going to
3 hear from.

4 Leonard Lujan. Mr. Lujan has killed three
5 people that we know of. That's who he's admitted
6 to, but only after they already had the evidence
7 against him. You heard that he raped one witness in
8 order to try to get away from his responsibility,
9 and he cut a deal with the Government. And you'll
10 hear that he hopes to get out in the community.

11 Now, when they take the stand -- you know,
12 before lawyers put witnesses on the stand, we sit
13 down with the witnesses and we talk to them about
14 what to expect. We tell them what the pitfalls are
15 and what we anticipate the other side is going to
16 do, and we tell them what we want to see. We want
17 them to, you know, look the jury in the eye. We
18 want them to be straightforward.

19 Okay? In this case, you know, they've
20 been told, "Look, admit to all the things that we
21 already know you did, so that will make you look
22 real honest, because you're admitting to things, and
23 everybody is going to say, 'Wow, they're admitting
24 to all these things. Why would they do that if
25 they're not an honest person?'"

1 They've been told, you know, "Get out
2 there and admit it because you're never going to get
3 charged with it."

4 Well, what we did was, we decided we liked
5 to at least kind of see who these people really are,
6 not when they're shined up on the stand, but who
7 they are in real life, not just by the actions. And
8 actions do speak louder than words; but sometimes we
9 have to hear their words, see what they are.

10 So we've got some phone calls. We
11 subpoenaed the Government to get the phone calls
12 from jails when they're on the phone with their
13 families, and you're going to hear from some of
14 them, where they're continuing their con games. But
15 with regards to Mr. Lujan, you'll hear what his
16 hopes and dreams are, because he's going to tell his
17 family and his friends, his wife, that what he wants
18 to do is get out in the community. He thinks that
19 by testifying and blaming Billy Garcia and others,
20 that he's going to get out in the community. And he
21 had a good reason to believe that would happen. It
22 worked once before, in 2007. We're going to hear a
23 lot about him and his crimes and his history of
24 dishonesty.

25 But we already have the United States

1 Attorney's Office in 2015 telling you all you need
2 to know about Mr. Lujan.

3 Here are some of the past. January 27,
4 2015. This is after the arrests in this case.

5 "You know, Christy, I've done some
6 fucked-up shit. You know, I've done some fucked-up
7 shit, but I've never put a woman in the hospital or
8 nothing like that, you know what I mean?"

9 "Yeah."

10 "I've never fucking cut open eyes or
11 nothing except for fucking with Carla's friend. I
12 broke her fucking nose, but it was her fault. She
13 dug her nails into me, you know. Fuck it. And I
14 was drunk, so I just drew back and fucking clocked
15 her, you know. But other than that, I've never, you
16 know."

17 So once again, this was the poor woman's
18 fault, in Mr. Lujan's eyes. It was her fault,
19 somebody else's fault. Serious domestic violence.

20 Here's another one of the calls. It gives
21 you a window into who he is and what he's hoping
22 for.

23 Candy. This is a woman who he's talking
24 to. "So your lawyer told you to take that plea or
25 what?"

1 "Oh, yeah. But that was our best thing to
2 do. You know, I was --"

3 "Really, Leonard? A la verga, bro."

4 Leonard says, "Yeah, well, look, Candy,
5 I'm not going to lie to you. I'm not gonna lie to
6 you. I mean, a lot of them vatos turned and stabbed
7 me in the back, ratting me out and this and that."

8 No one -- you're not going to hear that
9 anybody -- vatos means they're friends in the SNM.
10 Nobody ratted Lujan out. Lujan pointed a finger at
11 other people. So when he says, "I'm not going to
12 lie to you," he's lying to her. Okay?

13 And so when he gets up on the stand and
14 says the same thing, that will be your clue of what
15 he's doing.

16 "Yeah, they threw -- they fucking threw me
17 under the bus," in Spanish. "You know, so I -- oh,
18 now when I went -- I was one of the last ones."

19 Now, he was the first one. He was the
20 first one.

21 "The last ones that was holding out.
22 Everybody had already pled out because they're big
23 snakes and they're still big snakes."

24 "Well, their time's coming, bro."

25 And then it goes on:

1 "What's a life sentence? Thirty years,
2 Leonard?"

3 "Something like that. But if everything
4 works out, Candy, and everything goes the way I hope
5 it goes, then they'll -- they'll give me some love
6 and show me some love, and hopefully I'll just get
7 10 or 15, and maybe I might get -- might be
8 probation, you know."

9 "Them" meaning the Government here.

10 The next guy you're going to hear from is
11 Freddie Munoz. He is a smooth and practiced talker.
12 I got to watch him in a trial of some of the people
13 that killed Mr. Marcantel and Mr. Santistevan (sic.)
14 He's smooth. He's the man who calls himself
15 Playboy, and he fits the part. He's not a guy --
16 well, you'll hear about him murdering people. He
17 didn't do it because of self-defense or, you know,
18 something bad happened during a robbery. This is a
19 guy who does it because he enjoys it.

20 So he's going to be a smooth and cool
21 customer up there. He's very intelligent. Super
22 intelligent. He knows how to work the system. He
23 shot a man to death on the street. He tried to
24 shoot a woman to death. He ordered the deaths of
25 others. And his hope, and you'll find out and

1 you'll see it in writing, he wants to be moved to
2 federal custody and get a commutation -- that means
3 from the governor -- to live in the community. And
4 you're going to get to hear, he's hoping and has
5 been told by the Government, the lawyers over here,
6 and also Mr. Acee, that they've said that they'll
7 write letters to help him get his sentence commuted
8 so he can live out in the community.

9 I'm going to skip over some of my slides
10 so we get to see more. But here, you'll get to see
11 this. He writes poetry about killing people and how
12 clever he was for getting away with it.

13 Okay. Mr. Martinez. Mr. Martinez is a
14 guy who you'll find out he was invited with his
15 friends into someone's home, two people's home, and
16 eventually decides to reward that hospitality by
17 butchering the two owners of the home. He stabs
18 them both to death and gets out of his own clothes,
19 puts their clothes on so that he looks nice and
20 clean. He then takes his clothes --

21 MS. ARMIJO: Your Honor, may we approach?

22 THE COURT: You may.

23 MS. ARMIJO: Can we have the screen go
24 blank?

25 THE COURT: We'll take it down for just a

1 second.

2 (The following proceedings were held at
3 the bench.)

4 MS. ARMIJO: Your Honor, this time has
5 passed 609. The fact of his prior murder is what
6 got him in jail, but it was never brought out. It's
7 not an SNM hit, and it was kept out of the first
8 trial. So we would object at this point to it
9 coming in, because it was not 609. It is not
10 gang-related activity.

11 MR. CASTLE: We gave the Government notice
12 that we were going to rely on the 609. To get
13 around the timeframe, we're offering it not because
14 we're saying it's a notice. In fact, the Court will
15 see there is nothing about his conviction. We're
16 talking about the level of dishonesty, and this
17 talks about his character for dishonesty, how much
18 he's manipulated evidence in that case to try to
19 hide his own guilt.

20 That's what we're saying Mr. Martinez is
21 doing in this case. He's manipulating evidence --
22 in other words, his testimony -- in order to get out
23 of his responsibility.

24 And so this is a man who takes his clothes
25 off --

1 THE COURT: Why don't you take that off
2 the screen. Can your paralegal just take it off?
3 Okay, that's fine.

4 MR. CASTLE: He takes his own clothes off
5 and puts the victim's clothes on. Then puts it all
6 in a car, then torches the car to get away with the
7 murder, just like I think the Government is going to
8 argue happened in the Burns matter, and shows
9 consciousness of guilt.

10 But this is a person who has shown a
11 history of trying to get away with his crimes, like
12 the crime against Mr. Santistevan and Mr. Marcantel,
13 by trying to fool everyone.

14 And so we believe it's evidence of his
15 dishonesty.

16 THE COURT: Well, let's do this. For
17 opening statements, that's a lot to try to absorb.
18 I think you can at least get into the fact he was
19 convicted. So you don't need to put the chart up
20 there. You can say he was convicted. I think
21 that's going to be proper 609, going through, this
22 is false, his truthfulness.

23 And then I'll give it some thought as to
24 whether we're going to go beyond that. 609, that
25 would be much more information than we would

1 normally give the jury to evaluate, which is usually
2 put in the fact of conviction and what it is, and
3 maybe the date or something like this. So this
4 would be more information.

5 If we're going to get into that more in
6 the trial, I can give that some thought as to where
7 we're going to go.

8 But at the present time, just give the
9 conviction and tell them what he's going to show,
10 and not get into the facts, and we'll sort that out
11 at trial.

12 MR. CASTLE: Can I have a moment to make
13 sure the slide was advanced? I was given a note
14 with "10 minutes." When the Court asked how long my
15 opening was, I'm covering things generally about the
16 2001 murders and the witnesses they'll hear so that
17 other people who are on the 2001 murders won't have
18 to cover that. So that had been my request.

19 THE COURT: You had asked for more time,
20 but an hour is coming up in about 10 minutes. So go
21 about ten more minutes, then we'll see where you
22 are.

23 MS. ARMIJO: And, Your Honor, just for
24 clarification, because it's just 609 at this point,
25 we're requesting that it just be, at this point,

1 he's convicted of a felony, not a double murder or
2 anything else.

3 THE COURT: I think he can say "murder."
4 He can go ahead and say the type of conviction. So
5 I'll allow him to do that, and then we'll sort out
6 whether we're going to go into details later on in
7 the trial.

8 MR. BENJAMIN: Your Honor, based upon
9 Mr. Castle's request -- I think we did this on voir
10 dire. I timed out my presentation, that I thought
11 was going to take an hour or two, to essentially 45
12 minutes, so I think there is going to be time that I
13 would be willing to cede to Mr. Castle.

14 THE COURT: All right. How much?

15 MR. BENJAMIN: Twenty minutes is an easy
16 number I can give, Your Honor.

17 THE COURT: Do you want to take a break at
18 10:00 to give the jury a break, and then come back
19 in and do another 20 minutes? Or do you want to --

20 MR. CASTLE: It might be good. Because I
21 want to make sure -- the same objection. I want to
22 make sure my other slides are not going to cause us
23 to come up.

24 THE COURT: So maybe about 10:00 we'll
25 take a break, and come back in and give you another

1 20 minutes.

2 MR. CASTLE: Judge, I'd rather look now,
3 if you don't mind, because I don't want to violate
4 anything.

5 THE COURT: You want to take the break
6 now?

7 MR. CASTLE: Yeah.

8 THE COURT: It's a little early. Let's
9 see if we can go -- if we see a slide, we can fast-
10 forward it.

11 MR. CASTLE: Okay.

12 (The following proceedings were held in
13 open court.)

14 THE COURT: All right. Mr. Castle.

15 MR. CASTLE: Mr. Martinez. Suffice it to
16 say he's a convicted felon, a convicted murderer.

17 Mr. Lovato, Robert Boo-Boo Lovato. You're
18 going to hear from him. He's also a convicted
19 murderer. He was closed twice -- he was an
20 informant for the FBI -- for committing aggravated
21 battery, robbery, and tampering with evidence in
22 2012; and in 2017 for doing drugs. He's already
23 free. Mr. Lovato was arrested on a possession of a
24 weapon by a felon, and he cut a deal to get out of
25 that and avoid, hopefully, going to prison. But

1 they've left him out on release until he gets done
2 with his testimony. But you're going to hear from
3 him.

4 Then you're going to hear from Sammy
5 Sleazy Griego. That's the name he gave himself, and
6 he tattooed it on his body. And I think that
7 sometimes a picture can be worth a thousand words.
8 But you'll hear about him.

9 Then you're going to hear from Gerald Styx
10 Archuleta. Mr. Archuleta was like one of the
11 biggest leaders ever in the history of the SNM. He
12 murdered his wife after finding out she was
13 pregnant, and he believed it was not his child, so
14 he killed her and stuffed her in a closet. And he
15 killed another informant, a person by the name of
16 Matthew Cavalier. And he was given a three-year
17 deal, and it's going to be coming up here on
18 December 2, 2018, where he gets out and he goes
19 where he wishes.

20 And he was that guy, remember, I told you
21 earlier, that was very upset that his wife had gone
22 with this other gang leader by the name of Julian
23 Romero. That was the second wife. And so you'll
24 hear that he ordered Frederico Munoz, the guy we
25 talked about earlier, Playboy, to go kill Julian

1 Romero. And also in the midst of that, bullets were
2 fired at his second wife.

3 But Gerald Styx Archuleta, he is going to
4 give you kind of a background as to his version of
5 the SNM. And he's been rewarded with a three-year
6 deal. And the reason that's kind of important is,
7 that kind of gives hope to all the other witnesses
8 for the Government that, you know, if I perform well
9 enough, this is what I get to get, maybe.

10 You're going to hear from Eugene Martinez.
11 Now, he plays the ultimate con game. He plays the
12 crazy scam. Okay? A lot of times, inmates will do
13 different things. Okay? So sometimes when you're
14 in custody, you want to have a lot of drugs because
15 you don't want to feel what's going on in prison.
16 Somewhat you can understand that. So they'll play
17 sick or got a back problem. And he plays "I'm
18 crazy."

19 He purposely tanked his intelligence
20 quotient test when he was tested. What happened
21 was, his lawyer -- he was charged in this case for
22 the murders, at least one of the murders in the 2001
23 murders. His lawyer and him decided to say, "I'm so
24 crazy, I'm incompetent. I can't." And when you're
25 incompetent, you can't ever go to trial. And if you

1 can really be successful and convince a Court that
2 you're permanently incompetent, guess what happens?
3 You walk out that door, because the Government --
4 the Constitution says we can't put a person who is
5 incompetent on trial.

6 So that's a really interesting and super
7 smart way to go when you pull it off. Well, he
8 wasn't able to because he kind of overdid it. He
9 acted so crazy and so -- acted like he was so
10 lacking of intelligence that he scored a 40 on the
11 IQ test. Okay? Normal is 100. Two standard
12 deviations; that means 28 percent of the population
13 gets down to 70. He went all the way down to 40.

14 But luckily, the Department of Justice --
15 you have to understand, the Department of Justice is
16 a big agency and it's a federal government agency.
17 It has the FBI under it and the U.S. Attorney's
18 Office under it. But they also have doctors to do
19 evaluations on defendants who claim they're crazy
20 enough that they get to walk out the door. Okay?
21 Because the Government wants to make sure that
22 people don't use that as a scam.

23 So they have doctors that are really
24 professional, and you're going to get to hear from
25 one of them, the one that evaluated Mr. Eugene

1 Martinez. And that doctor did something
2 interesting. That doctor had people at the
3 hospital, or the jail, watch what Mr. Martinez did.
4 Once again, actions speak louder than words.

5 He saw Mr. Martinez working on a computer,
6 a laptop, a tablet that was given to him. They saw
7 him or listened in on phone calls he made to his
8 wife, where he was talking about how he was going to
9 manipulate the system.

10 So they looked at different things. And
11 so this doctor you're going to hear from, she works
12 for the Department of Justice. She made this
13 forensic evaluation, where you're applying some
14 other area of science to the law. That's what
15 forensics means. And this is a person who is
16 qualified and trained to apply psychology and
17 psychiatry to the law, because you can see it can
18 intersect when people want to walk out the door.

19 And what did they find? Mr. Martinez's
20 scores on the efforts measures were both within the
21 suspect range, suggesting he did not approach the
22 test in a forthcoming and honest manner. His scores
23 on measures on malingering -- remember, malingering
24 is faking a psychiatric or medical condition to get
25 what you want, and he was trying to get out the

1 door -- indicated he was feigning or exaggerating
2 cognitive impairment and symptoms of mental illness.
3 His scores -- well, it goes on.

4 Based on the available information, Mr.
5 Martinez's diagnoses are malingering, opioid use
6 disorder, severe, et cetera. The doctor finds
7 essential feature of malingering is the intentional
8 production of false or grossly exaggerated
9 psychological or physical symptoms motivated by
10 external incentives, meaning like evading criminal
11 prosecution.

12 And this DSM-5 -- it's a book. It's kind
13 of their Bible that the psychologists and
14 psychiatrists use -- says that malingering should be
15 strongly suspected if any combination of the
16 following is noted: Medical or legal context or
17 presentation; for example, the individual is
18 referred by an attorney to the clinical -- for
19 examination, or the individual self-refers while
20 litigation of criminal charges are pending.

21 THE COURT: Mr. Castle, would this be a
22 good place for us to take our break?

23 MR. CASTLE: Yes, Your Honor.

24 THE COURT: All right. Let's take our
25 first break during the opening statements. I'm

1 going to remind you of a few things that are
2 especially important. Until the trial is completed,
3 you're not to discuss this case with anyone, whether
4 it's members of your family, people involved in the
5 trial, or anyone else. And that includes your
6 fellow jurors.

7 If anyone approaches you and tries to
8 discuss the trial with you, please let me know about
9 it immediately. Also, you must not read or listen
10 to any news reports of the trial. Again, don't get
11 on the internet and do any research for purposes of
12 this case. And finally, remember that you must not
13 talk about anything with any person who is involved
14 in the trial, even if it doesn't have anything to do
15 with the trial.

16 If you need to speak with me, simply give
17 a note to one of the court security officers. I am
18 going to repeat these probably a little bit more
19 often here at the beginning of the trial, then we'll
20 slack off. But do keep them in mind each time we
21 take a break, even if I don't repeat them.

22 All right. We'll be in recess for about
23 15 minutes. All rise.

24 (The jury left the courtroom.)

25 THE COURT: You had asked for 45 minutes,

1 so you may need to borrow a little bit more time if
2 you're going to carry the water for everybody, but
3 I'll let you talk about that at the break and kind
4 of let me know how to allocate the time.

5 All right. We'll be in recess for about
6 15 minutes.

7 (The Court stood in recess.)

8 THE COURT: All right. I think we've got
9 all the defendants in, right? And everybody has got
10 a lawyer. All right.

11 So, Mr. Castle, you had something?

12 MR. CASTLE: Yes, Your Honor. We found it
13 in the transcript that what I had said was, it was
14 our hope that Mr. Garcia could go first in the
15 openings and do an overview of Counts 1 and 2, then
16 subsequent counsel can borrow from and not have to
17 repeat. So we anticipate that our opening might be
18 longer than others, but I still think it will be
19 within an hour.

20 But I'd ask the Court to consider a little
21 indulgence, because we're going to try to cover
22 areas that other defendants are essentially going to
23 be able to use. I'm not sure the Court agreed to
24 that. You didn't indicate at that time.

25 THE COURT: That's fine, if you said that.

1 I'll ask Ms. Bevel. Do you have what page?

2 MR. CASTLE: That's page 20 of March 12,
3 2018.

4 THE COURT: Okay. All right. I'll ask
5 her to look at that.

6 Would you also, so that I can sort of
7 think through what was said here at the bench, the
8 slide that you had on Mr. Martinez, Baby Rob
9 Martinez, if I can get a copy of that.

10 They've given a page that they think he
11 said on the transcript, where they think that Mr.
12 Castle asked for an hour, so if you'll just
13 double-check that. You don't have to do that right
14 now, but just at some point so that I can begin to
15 think a little bit about that.

16 MR. CASTLE: We'll give it to the
17 prosecutors.

18 THE COURT: Here's the email that we got
19 from Henry Swantner. We'll try to get a copy of
20 this so we can file it with the Court record. But
21 this came in at 8:18 a.m.

22 "There is absolutely no way I can pay
23 attention. I have to start interviewing when I get
24 back because my position is disappearing now that I
25 won't be back. That's just the tip of the iceberg.

1 Oh, this is Henry Swantner."

2 So I'll try to get a copy of that.

3 MR. SINDEL: Your Honor, it's a little bit
4 hard to hear you. I got the general gist. You
5 don't have to read it again.

6 THE COURT: "There is absolutely no way I
7 can pay attention. I have to start interviewing
8 when I get back because my position is disappearing
9 now that I won't be back. That's just the tip of
10 the iceberg. Oh, this is Henry Swantner."

11 So I'll try to get a copy of that, and we
12 can give it some thought.

13 MR. SINDEL: Thank you.

14 THE COURT: You bet. All right. What
15 else have we got over here?

16 MS. ARMIJO: Just a couple of things. We
17 worked with Ms. Bevel on this. One of the things we
18 suggested was --

19 MS. HARBOUR-VALDEZ: This is a statement
20 of the case.

21 MS. ARMIJO: -- maybe a breakdown of the
22 charges.

23 THE COURT: Okay.

24 MS. ARMIJO: I have a chart that I used in
25 my opening that I will provide to Ms.

1 Harbour-Valdez. And if the defense wants changes,
2 maybe we can attach that.

3 The other thing, real quick, I think both
4 parties are going to request that he be excused as
5 an alternate. He was just -- his demeanor, Your
6 Honor -- and I don't know if you've been watching
7 it. He is just not happy. He was shaking his
8 head -- because he was seated right behind me --
9 when I turned around. I just think he is unhappy.

10 THE COURT: Well, remember, he's not an
11 alternate. He is one of our 12 jurors.

12 MS. ARMIJO: Correct.

13 THE COURT: Here's my concern. Letting
14 him go with his temper tantrum that he's performing
15 could endanger us keeping our other jurors. I can
16 understand why you might reach the conclusion you
17 don't want him back there in the jury room, but I'm
18 also somewhat thinking that what we ought to do is
19 say, "If you don't want to serve on the jury, that's
20 fine, but you're going to sit over there in the
21 back, the corner. You're not going back because
22 we're not going to let you throw a temper tantrum
23 and let all the other jurors see that's the way you
24 get off the case."

25 I don't know. Let's think about it a

1 little bit. I'll get you a copy of this. I'll
2 probably defer to whatever y'all want to do. But I
3 do think we need to realize it's not a one-edged
4 sword. It's a two-edged sword if we allow him to
5 throw a temper tantrum. You know, he works for two
6 of the biggest employers in Albuquerque. He's
7 probably going to be well taken care of for his jury
8 service. But I'll defer to what y'all want to do.

9 Let me get this into your hands. We'll
10 get a copy of it somehow and attach it to the
11 minutes. The letter, I think we all agreed we did
12 get a copy of the letter, and we saw this, and we
13 made our decision anyway. Okay.

14 MR. SINDEL: Your Honor, has anyone from
15 the clerk's office heard back from the inquiry of
16 the corporations concerning, you know --

17 THE COURT: Let me see what I can do. I'll
18 send a text while I'm up here, and I'll try to find
19 that out.

20 MR. SINDEL: I appreciate it, Your Honor.

21 MR. COOPER: And just from the defense's
22 perspective, Your Honor, we agree with what Ms.
23 Armijo said. Absolutely he walked in and he was
24 shaking his head, saying, "No, no, no."

25 THE COURT: The question is, do you want

1 him dismissed now? You can make him sit on that
2 jury, and we can all just say he's going to be
3 alternate number 6, or we're never going to seat him
4 as a juror. But do we seat him? Or we stick him
5 back over in the corner and say, "You're not going
6 home," and tell the jury that --

7 MR. COOPER: The fear that I have is that
8 he's going to poison that pool if he sits in there
9 for much longer, and I don't want that to happen.
10 And I trust the other 11 jurors who are presently
11 jurors. I trust those alternates. I think they --
12 I don't see that it's going to cause all of them to
13 say, "I'm out of here, too."

14 THE COURT: Do you want him out now?

15 MR. COOPER: I believe so.

16 THE COURT: Is that what the Government
17 wants, out now?

18 MS. ARMIJO: I think we -- yeah, we agree.

19 THE COURT: All right.

20 MS. ARMIJO: But maybe there can be
21 something the Court can think of as far as letting
22 the jurors know that, you know, there is no easy
23 out. I don't know. I agree with the Court that it
24 is a concern, and I think in our last trial we went
25 to great extent, even having some dead time in the

1 trial, to accommodate the jurors. And I just don't
2 want, as the Court indicates, this to be a domino
3 effect.

4 So I'm just trying to think of ways to
5 mitigate that.

6 MR. SINDEL: Your Honor, I think the other
7 jurors are probably aware of the circumstances
8 simply, you know, like we all are, from the body
9 language, from the swearing in, and everything else.
10 And in looking at the jurors, which I've been able
11 to do, they all seem to be paying quite a bit of
12 attention and seem to be riveted as to both the
13 prosecution and the most recent opening statement.

14 I really suspect that they won't see this
15 as an out.

16 THE COURT: All right. Is everybody in
17 agreement we pull him out of the jury room now?

18 MR. COOPER: I think we ought to do it
19 after the openings or before -- or at the lunch
20 break.

21 MR. CASTLE: Judge, my concern is that if
22 there is a chance that the jury is going to start
23 thinking about why he got pulled, I don't want them
24 thinking about that instead of my opening statement.

25 THE COURT: Okay.

1 MR. CASTLE: I want them to concentrate on
2 it.

3 THE COURT: Is everybody comfortable with
4 that? At the lunch break, whenever that occurs,
5 we'll have Ms. Bevel tell him he's excused?

6 MR. SINDEL: Yes, Your Honor.

7 THE COURT: And nobody wants to hold him
8 hostage in the back of the courtroom?

9 MR. SHATTUCK: I think that would be as
10 big a disruption as if he were sitting up here.

11 THE COURT: All right.

12 MR. SHATTUCK: They'll be wondering why
13 he's sitting --

14 THE COURT: Does the Government agree?

15 MS. ARMIJO: Yes, Your Honor.

16 THE COURT: All right. So Ms. Bevel will
17 tell him, when we take the lunch break, he doesn't
18 need to come back to the courtroom.

19 MR. SINDEL: We don't have to thank him
20 for his service.

21 THE COURT: I won't. You probably
22 detected that, right? All right. Anything else?

23 (The following proceedings were held in
24 open court.)

25 THE COURT: All right. Everyone be

1 seated.

2 All right. Mr. Castle, if you wish to
3 continue your opening statement on behalf of
4 Mr. Billy Garcia.

5 MR. CASTLE: Thank you, Your Honor.

6 THE COURT: Mr. Castle.

7 MR. CASTLE: Sometimes lawyers slip up a
8 little bit, and I think one of my colleagues told me
9 that I said that Secretary Marcantel was killed. He
10 wasn't. And he wasn't, thanks to the good work of
11 the state and federal officials. They stopped that,
12 and stopped Mr. Santistevan from being killed.
13 People were prosecuted. Some of them cut deals with
14 the Government to be witnesses. Other ones went to
15 trial and were convicted by a jury. But those two
16 men, luckily, are safe.

17 And so I slipped up. It wasn't -- because
18 I just made a mistake. And it's probably not going
19 to be the last one I make in this trial.

20 The second thing I want to say before I go
21 back into the opening statement is, each of these
22 defendants need to be individually tried. I only
23 represent Billy Garcia. While we understand y'all
24 don't want to hear the same thing over and over
25 again, kind of like some of the lawyers did with the

1 jury selection process -- no offense, folks. So we
2 talked, and we're trying to eliminate duplication,
3 not because we're acting in concert or as a group or
4 anything like that. We're doing it because of
5 presentation purposes.

6 So my opening is a little longer than
7 others, and the other defendants aren't going to
8 repeat it, not because they don't think anything is
9 unimportant, but they just don't think you need to
10 be hit over the head more than once.

11 With that said, I want to continue with
12 Mr. Martinez. This is the final analysis regarding
13 Mr. Martinez of note:

14 Mr. Martinez demonstrated a tendency to
15 recall details about information supporting his
16 claim of cognitive impairment. However, he
17 expressed an inability to recall information
18 possibly implicating him, including case events.

19 Mr. Martinez presented as agitated when
20 asked about potential involvement with the instant
21 offense, particularly anything which may have
22 implicated his involvement. His ability and
23 willingness to recall some details of his history
24 but not remember information regarding the instant
25 offense is extremely rare. This presentation

1 suggests planning and complex thinking, which is in
2 direct contrast to an individual dealing with
3 significant cognitive impairment.

4 So after Mr. Martinez is evaluated, his
5 game of saying "I'm incompetent" was over. He lost
6 that argument, and now he's facing murder charges.
7 Not only facing murder charges, but facing it with
8 now some evidence that the guy is extremely
9 dishonest, even worse evidence. He cut a deal, too.
10 I think you probably knew that before I even said
11 it. He cut a deal and agreed to testify in return
12 for the hope of getting out that door a different
13 way, through cooperation.

14 The next individual I'm going to talk
15 about is a person by the name of Manuel Big Jake
16 Martinez (sic.) I got to see him testify, as well.
17 Oh, I'm sorry. I got to see him testify. He's a
18 pretty impressive guy. He's really fit, a huge man,
19 a strong man. And he was probably, because of that
20 physical size and strength, he was an enforcer for
21 the SNM.

22 And you'll hear about all kinds of things
23 that he's done, including one particular incident
24 where he lured a person he knew from high school
25 over to an area and stabbed him to death. But he

1 also doesn't just do, you know, individuals in
2 prison or on the streets. He assaults guards. And
3 you'll find out that he took a deal in this case,
4 and it was really unique.

5 These guys are all given lawyers, and
6 lawyers do what they can to help their clients out.
7 He's going to have to do some time. He made sure
8 that his deal didn't include anything about
9 assaulting the guards. I think you probably know
10 why. Because if he has to go do time and he has a
11 record that says he assaults guards, well, the
12 guards in the new prison aren't going to take too
13 good a look at that, are they? They're going to
14 treat him not with kid gloves anymore. But he
15 wanted to make sure his time was cushy, so he made
16 sure that the assaulting of the guards wasn't in
17 there.

18 Now, you're going to hear some evidence
19 about all these guys. Okay. They were all doing
20 time in New Mexico prisons, and these are not -- New
21 Mexico didn't decide to make prisons comfortable.
22 The severe offenders, like the guys you're going to
23 hear from, they made them pretty hard. They do --
24 23 out of every 24 hours a day they'd be in their
25 own cell, and for one hour they'd be literally kind

1 of in an outdoor cell, a cage by themselves, where
2 they can exercise. Okay? No human being wants to
3 live like that. I mean, that's why it's punishment.

4 And so a lot of these guys, they take
5 deals in Federal Court. Because guess where they're
6 going to serve their time now? They're going to get
7 to serve their time in federal prisons. And there's
8 a lot of things that can happen in federal prison,
9 even in the really bad ones that are just like the
10 New Mexico toughest prisons. But you can also go --
11 you know, like some people call them Club Fed. You
12 can go to places where it's more comfortable.

13 And one of the places that they deal with
14 people who are informers, they put them in special
15 prisons. They're called WITSEC prisons, witness
16 security. And the inmates all talk. They know all
17 about the conditions everywhere. They know they
18 don't want to go to Lompoc in California. They
19 don't want to go to this or that place. Okay? Or
20 ADX prison in Colorado, that houses people like The
21 Unabomber and terrorists like that. They know where
22 they want to go if they have to do their time.

23 Well, these witness security prisons,
24 here's what happens. You go in with other guys who
25 turn evidence, and everybody behaves. The reason

1 they behave is not because they're angels all of a
2 sudden because when they became a witness they got
3 spread with angel dust and became great people.

4 It's because they know that if they
5 violate the rules of the witness security prison,
6 they go back to general population, go to regular
7 prison with the very people that they may have told
8 about or given information about, and it's a death
9 sentence. So for them, not only do they try to get
10 a lower sentence, but they're also trying to make
11 sure that they don't get a death sentence.

12 So the witness security prisons are a
13 better place, so some of these guys are motivated by
14 doing their time not in the tough New Mexico
15 prisons, but these nicer ones. And they're
16 obviously hoping to get out, too.

17 Go back to Mr. Armijo. He was charged in
18 this case, and he was locked up. Oh, then he and
19 his lawyer decide: Well, I'll give information.
20 I'll testify for the Government.

21 And then what does he get rewarded with
22 immediately? Instead of being locked up -- you have
23 to understand that originally everybody, including
24 the US Government, agreed: Mr. Armijo needs to be
25 inside. We shouldn't let him out loose while he's

1 facing his charges. All of a sudden, because he
2 cooperated, he was let out on bond.

3 The Government agreed to let him go out on
4 bond. That means, for those that aren't familiar,
5 in Federal Court, basically you have to promise you
6 come back to court; and you have to follow some
7 rules and regulations; and you have to report to a
8 Pretrial Services officer, whose job is to make sure
9 you don't commit new crimes, and stay clean, and
10 things. That's it. You don't have to put any money
11 down or anything.

12 Mr. Armijo walked out. And, again, he was
13 cooperating with the Government. He promised: I
14 won't commit any new crimes. I'll follow the rules.

15 What does he do? Commits new crimes. He
16 starts using drugs. And guess what they do? The
17 Pretrial Services officer says, "Hold on. You
18 violated the terms. You've got to come back in.
19 We've got to get you in custody because you violated
20 it."

21 But the Government agreed to let him back
22 out. They said, "Okay, that's all right. You know,
23 we'll give you another shot at this."

24 Because, you know, he still had to
25 testify. You know, the other guy back in prison, he

1 has a long history of violence, as well.

2 There is other evidence in this case that
3 the Government didn't tell you about that suggests
4 something completely different happened here. In
5 2000 and 2001, the biggest of all the big SNM people
6 is a guy by the name of Angel Munoz. And I don't
7 have a photo of him, because we just don't have any.
8 The file has been destroyed, or something like that,
9 on Mr. Munoz. But it really doesn't matter what he
10 looks like. He was the biggest guy. They're not
11 going to dispute that. None of the witnesses are.
12 His name is Angel Munoz.

13 Now, you're going to hear a lot about what
14 the FBI does when they interview some of these SNM
15 members, and they tell them, "Hey, we want to know
16 everything. Talk to us. Okay?"

17 And some people tell them everything; some
18 people don't. These are convicted felons and things
19 like that. Sometimes they get information that
20 doesn't really fit what they were going to go to
21 court on.

22 And Mr. Garcia caught a lucky break,
23 because in January of this year they brought Leroy
24 Lucero in and told him, "Why don't you join our
25 team, the Government team? So spread all, what you

1 can, and tell us."

2 When Mr. Lucero was doing that, he
3 accidentally told them that he was at the Southern
4 prison; that he got on the phone with Angel Munoz,
5 the guy at the top here, the big leader; and that
6 Angel Munoz ordered the murder of Mr. Garza and Mr.
7 Castillo. Completely different than what you heard
8 a little while ago, that it was Mr. Garcia. It was
9 Angel Munoz who wanted Leroy Lucero.

10 You're going to hear about Leroy Lucero.
11 Okay? Leroy Lucero was the head -- there is a term
12 called keyholders. What that means, it's just like,
13 you know, mom and dad of the house. You know, we
14 have the keys to the house. We're members of the
15 house. In the gang world, the keyholder is the top
16 gang person in that particular prison, so they
17 literally hold the keys to the prison. Okay?
18 That's what they call it.

19 Well, Mr. Lucero, before he went to the
20 Southern facility he was at Central New Mexico
21 Correctional Facility, another prison in a different
22 part of New Mexico. He was admitted keyholder to
23 that prison, the top SNM member for that prison in
24 2000. Then he gets moved to Southern New Mexico,
25 the one in Las Cruces. I can never state the full

1 name without slurring it, so I'm just going to call
2 it Southern. So there, there was already a leader
3 by the name of Alfred Leno Giron. So Mr. Lucero is
4 kind of one of his second in command. He didn't get
5 to be the leader.

6 Shortly before these murders, two months
7 before, Mr. Giron got shipped out or taken out of
8 that prison by the officials, and Mr. Lucero rose to
9 the top. He was now the leader. So he was leader
10 of the Southern prison. He gets on the phone with
11 Mr. Munoz and says -- it's a different Munoz than
12 the one you heard about earlier, Frederico.

13 Angel Munoz says, "I want these guys
14 dead."

15 Mr. Lucero agrees. Then he sets it up so
16 it happens when he leaves. Mr. Lucero leaves three
17 days before the murders. The murders happen,
18 conveniently, three days after.

19 But it's really interesting, and you'll
20 hear a lot of evidence about this. When they
21 interview Mr. Lucero, guess who he never mentions in
22 the entire interview? Leonard Lujan. And guess
23 what? When Leonard Lujan was interviewed, guess who
24 he never mentions? Leroy Lucero. Why?

25 If Leroy Lucero was admittedly given the

1 orders to kill from Angel Munoz, why doesn't he
2 mention anything about Mr. Lujan? Why, when Leonard
3 Lujan sends out two hit teams to kill, does he never
4 mention Leroy Lucero? They're in the same prison
5 together.

6 The evidence will suggest, it's trying to
7 protect each other.

8 You're going to hear evidence of dry
9 snitching. That's what the inmates call it. There
10 is many forms of it. One of the many forms of dry
11 snitching is, when you do something really bad, then
12 you kind of put the evidence off onto somebody else.
13 Sometimes you'll send a kite, which is a little
14 note, to the police, saying, "Guess what? This guy
15 over here did the murder."

16 And they ship that guy out of the town or
17 whatever, or to a different prison, or they start
18 suspecting them. These guys are really cunning.
19 These inmates are really smart. They want to get
20 away because they already know how hard prison is,
21 and they don't want to get another prison term.

22 So these two, I think the evidence is
23 going to suggest very strongly that these guys don't
24 want to get each other because they don't want to
25 take full responsibility.

1 Now, who Leonard Lujan hired to work with
2 to commit the two murders, I can't tell. Mr. Lucero
3 may have some information about that. He may not
4 share it with you. Leonard Lujan certainly knows
5 who he got, but seeing as he doesn't want to
6 implicate the person who talked to him, or even the
7 head boss, Angel Munoz, never wanted to implicate
8 any of those people, the evidence will suggest he
9 probably didn't want to implicate the people that he
10 got on as a crew to hit people. But who knows?

11 So I can't tell you who the two groups
12 are. I'm sure the lawyers and some of the people
13 that are being accused of these two little areas of
14 question marks are going to talk a little bit about
15 that. But that will be the focus of a lot of the
16 evidence in this case.

17 Now, there might be a few more inmates.
18 We don't know. I mean, sometimes new stuff bubbles
19 up because more prisoners want to get out of their
20 sentence or see this as an opportunity. So there
21 might be people I haven't shown you that might come
22 in here, that we don't know about yet. But I'd be
23 almost shocked if there wasn't more guys thinking
24 that this is an opportunity to walk out some door
25 somewhere. But this is what we've been able to find

1 out about, the ones that we know about.

2 It's upon the word and character of those
3 men that the Government rests its entire case. It's
4 not DNA. It's not corrections officers who saw
5 anything. It's not videotape. It's not
6 fingerprints. It's not fingernail scrapings. It's
7 not hair. It's nothing other than the word and
8 character of these men.

9 And we believe, at the end of this case,
10 that what will be shown is what was insufficient
11 evidence -- and that's a quote from the U.S.
12 Attorney's letter -- and not of a quality to sustain
13 a conviction in March of 2015 is not good enough to
14 sustain a conviction in 2018.

15 I thank you for listening and taking the
16 time. I'm going to caution you, my words aren't
17 evidence. This PowerPoint is not evidence. But I
18 think the evidence is going to bear it out.

19 And thank you.

20 THE COURT: Thank you, Mr. Castle. Mr.
21 Benjamin, do you have an opening statement for
22 Mr. Joe Gallegos?

23 MR. BENJAMIN: I do, Your Honor.

24 THE COURT: Mr. Benjamin.

25 MR. BENJAMIN: If I could ask the Court

1 and the jury's indulgence to set up a minute?

2 THE COURT: Certainly. Take your time.

3 MR. BENJAMIN: Good morning, ladies and
4 gentlemen. My name is Brock Benjamin. I, along
5 with Richard Sindel, represent Joe Lawrence
6 Gallegos.

7 This morning, we're going to talk to you
8 briefly about some of the incidents that Ms. Armijo
9 talked to you about.

10 Some of this stuff, I guess, kind of
11 reminds me of -- right now, you saw it's kind of
12 like when we moved into our room where we're staying
13 and you try and turn on the TV. Some of this is
14 easier than other things, and I think that's going
15 to hold true for what you're going to hear about the
16 allegations in this case.

17 Some of these are going to be things that
18 make sense. Some of these are things that, even
19 after dealing with this matter for a long time, have
20 nuances that I'm going to ask that you put a lot of
21 time and effort into, because those nuances are what
22 are extremely important. But most of those nuances,
23 the evidence will show, are going to be resolved by
24 credibility. And you've heard a lot about that and
25 what the evidence will show regarding witnesses'

1 credibility in dealing with people in this case.

2 (911 call played.)

3 MR. BENJAMIN: And when we start dealing
4 with evidence, you're going to have a better ability
5 to review that. So March 17, 2015, a 911 call was
6 made by Jose Gomez, saying that he was shot in his
7 hand. The police respond to a shots fired call, and
8 this is what ends up happening.

9 (911 call played.)

10 THE COURT: Hold on. Mr. Beck?

11 MR. BECK: That's a hearsay statement.
12 That's not an excited utterance. That's in response
13 to arriving on the scene.

14 THE COURT: Why don't y'all approach up
15 here.

16 (The following proceedings were held at
17 the bench.)

18 THE COURT: The one that's coming up is
19 what?

20 MR. BENJAMIN: The one that's coming up is
21 essentially an audio call that was provided for the
22 Government last night as part of a long audio call,
23 and I think it's a statement of present sense
24 impression. But more important --

25 THE COURT: What is it that you just gave

1 me?

2 MR. BENJAMIN: Minor laceration on his
3 hand. There is no gunshot.

4 THE COURT: Who is saying it?

5 MR. BENJAMIN: A sergeant with the
6 Valencia County Sheriff's Office.

7 THE COURT: Is it contemporaneous?

8 MR. BENJAMIN: Yes, Your Honor. He's
9 looking at the individual's hand, and this is on the
10 calls that have been requested produced.

11 THE COURT: Sounds like it might fit into
12 that.

13 MR. BECK: It sounds to me, listening to
14 it, after they've gotten to the scene and after
15 they've tied things up, when he calls back to
16 headquarters he said, "Minor laceration, cut on the
17 hand."

18 THE COURT: Is he calling back after a
19 period of time?

20 MR. BENJAMIN: I understand that it's
21 during the report, and the call led me to believe
22 he's essentially standing there and looking at Jose
23 Gomez, and they're still looking for the suspect.
24 So it's still during the course of, essentially,
25 what I would say is the ongoing emergency. And

1 that's -- yes, I believe the 911 call and the radio
2 calls are admissible because the ongoing emergency
3 deals with the severity.

4 THE COURT: I think the 911 call is okay
5 that we just heard. Well, I'll have to take your
6 representation about it. But if you do play it and
7 I don't let it in, do you feel comfortable with
8 that?

9 MR. BENJAMIN: Your Honor, I feel
10 comfortable defending this -- essentially, based on
11 experience with domestic violence cases, I think
12 this call would have come in because of the ongoing
13 emergency. They're still looking for them. And
14 they're very poorly written reports, but that's the
15 way I understand what's going on through Detectives
16 Hernandez and Harris.

17 THE COURT: I'll let him play it, and then
18 fight it out a little bit later.

19 (The following proceedings were held in
20 open court.)

21 THE COURT: Mr. Benjamin.

22 MR. BENJAMIN: Thank you, Your Honor.

23 (Tape played.)

24 MR. BENJAMIN: Those were two calls
25 that -- or part of one larger call that I believe

1 will come into evidence, describing what happened on
2 March 17, 2015, as it was happening. This is one of
3 the acts, the VICAR acts, that the Government has
4 alleged against Mr. Joe Gallegos, that he was
5 charged with violent crimes in aid of racketeering
6 for the assault of Jose Gomez with a dangerous
7 weapon.

8 You're going to hear testimony from Jose
9 Gomez that says that this started when he was
10 pulling a car from the driveway. It's a blue
11 Charger. He pulls out. Joe, Brandon Chavez, and
12 Sepphira Serrano pull up in the blue Charger, and
13 that's where the 911 call comes in. You'll hear the
14 officers testify to different versions than Jose
15 Gomez's. And I assume, because they're on the
16 witness list, you'll hear Sepphira and Brandon
17 Chavez testify to different versions of what
18 happened that day.

19 The evidence is going to show there was no
20 gun recovered. There was no knife recovered. There
21 is a minor laceration that was not documented.
22 There is a scene, it's a metal building, that an
23 individual on the 911 call, Jose Gomez, says he
24 crawled under to escape people, and cut his hand, is
25 what I think the evidence is going to show. The

1 only thing you have from March 17, 2015, are a lot
2 of pictures of this Dodge Charger.

3 And you're going to hear Valencia County
4 sheriff's deputies come in and say that Jose said a
5 male was running behind him with a gun. This is an
6 individual who, the evidence is going to show, lived
7 less than a football throw away from Joe Gallegos.
8 It's not "a male". It's an individual that, if Jose
9 Gomez turned around and looked at for a tenth of a
10 second, he would be able to identify. He's lived
11 next to him for, I think the evidence is going to
12 show, his entire life if not the majority of it.

13 Deputy Fernandez and Sergeant Harris is
14 also going to, I think, testify that the injuries
15 were a minor slice on his left hand between his
16 index and thumb.

17 It sounds like something on your hand when
18 you're moving something or crawling under a
19 building. But Jose tells Deputy Fernandez that he
20 was stabbed in both hands while he's standing there
21 talking to the deputy.

22 Sepphira Serrano is going to come in and
23 say she didn't see a knife; she didn't see a gun.
24 And there is not going to be any pictures of this
25 hand or hands. There is not going to be any

1 evidence that anything was even medically treated.

2 You'll hear evidence once again from Jose
3 Gomez that he's refusing any treatment. But we're
4 not told what that treatment is, and the evidence
5 won't show what that treatment would have been for.

6 And as I said, the only thing we're going
7 to see is lots of pictures of that blue Charger.

8 You've heard about, essentially, some of
9 the incidents. Joe Gallegos is involved in three
10 separate allegations, and I'm going to break those
11 down for you. The first one is -- as you can see,
12 it's a picture of P-One. That's the prison at
13 Southern New Mexico. That's the 2001 allegation
14 that Mr. Castle talked about a lot. I'm going to
15 cover that at the end because that was covered, and
16 as Mr. Castle told you, we're trying to work
17 together to present some things, but there are some
18 things that I think are important and relate
19 specifically to Joe Gallegos, and I'll cover that.

20 But that was where defendants Joe Lawrence
21 Gallegos, Edward Troup, and Billy Garcia have been
22 charged in the indictment with violent crimes in aid
23 of racketeering for the murder of Frank Castillo
24 occurring on or about March 21, 2001.

25 The next incident is the one that Ms.

1 Armijo told you about. In 2012, defendants Joe
2 Lawrence Gallegos and Andrew Gallegos were charged
3 with violent crimes in aid of racketeering for the
4 murder occurring on or about November 12, 2012, of
5 Adrian Burns, and also for conspiring to murder
6 Adrian Burns.

7 Ms. Armijo stressed -- and I think that's
8 because the evidence is going to show that there is
9 nothing to support that -- that this murder, if
10 committed, was committed because of disrespect. But
11 that's going to be something that they're going to
12 ask you to pull out of the evidence. You're not
13 going to hear in 2012 things like Leonard Lujan's
14 statement about, "This is what I did," because those
15 don't exist in that case. I'll deal with those
16 individually.

17 Lastly, you're going to hear about two
18 incidents that are essentially grouped together by
19 the Government. They're grouped together because
20 that's how they're trying to get you, once again, to
21 pull from nothing that these things occurred. And
22 I've got something up there, as I've said, stock.
23 There is no photos taken. There is going to be no
24 evidence showing there was a minor laceration on
25 Jose Gomez's hand. The individual on your right is

1 Jose Gomez, and he's essentially photographed,
2 essentially sleeping after the 2016 assault on Jose
3 Gomez.

4 In 2016 Shauna, Gutierrez is walking in
5 Los Chavez, New Mexico. And you'll see a map of the
6 area of Los Chavez. For those of us or those of you
7 who were like me, that didn't know that Los Lunas is
8 not the entire area there, there's Los Chavez, Los
9 Lunas, and Belen, and they kind of bleed together.
10 So we will try to separate that in the presentation,
11 but different witnesses will refer to Los Chavez,
12 Los Lunas, and I think they'll mix the areas.

13 But Shauna Gutierrez is walking in Los
14 Chavez. And she sees -- and Charlene Parker-Johnson
15 sees her walking and picks her up and gives her a
16 ride. Charlene Parker-Johnson is an owner of a
17 house, and staying at the house on February 27,
18 2016, is an individual named Jose Gomez, who you've
19 heard about. And the evidence is going to show that
20 he's going to give his version of what he's doing,
21 and staying at that house, providing handyman
22 services, and everything else.

23 Charlene Parker-Johnson is going to come
24 in relay a different story of an individual who is
25 staying on her couch, who is not leaving, who is

1 bothering her, who is trying to date her, who is
2 just being probably a royal pain that won't go away
3 and get off my couch. And she relates this to
4 Shauna Gutierrez, who knows Jose Gomez.

5 Charlene Parker-Johnson then drops Shauna
6 Gutierrez off at the house that she's staying at,
7 Joe Gallegos' house. And this is in 2016. Joe
8 Gallegos is in custody for this case. And you're
9 going to hear multiple different versions from
10 Shauna Gutierrez, Brandy Rodriguez, Paul Oso
11 Rivera -- and, once again, we're using the nicknames
12 because that way it's easier for you to remember,
13 and that's how a lot of times you will hear them
14 identify themselves -- and Santos Gonzalez are at
15 the house when Shauna Gutierrez gets there.

16 Charlene Parker-Johnson goes back to her
17 house. The testimony, I think, is going to differ
18 and vary -- and I think the word that you can
19 probably use is "wildly" -- to define what occurred
20 at 4 Erin Court when Shauna gets there and sees
21 Brandy, Paul Oso, and Santos.

22 Irrespective, those three -- Brandy
23 Rodriguez, Paul Oso Rivera, and Santos Gonzalez --
24 hop in the truck, in Shauna Gutierrez's truck. They
25 drive to Charlene Parker-Johnson's house, where she

1 lets them in. And they let them in a back bedroom
2 where Jose is asleep, and they proceed to strike him
3 with a machete, strike him with a baton, and he
4 falls down on the floor. And you're going to hear
5 him tell that he was just savagely beaten by these
6 three individuals.

7 There's going to be statements that are
8 made. And this occurred at a house on Sunflower. I
9 got a little ahead of myself. This is essentially
10 the area. As you can see, it's a very small area.
11 But the beating occurs in Charlene Parker-Johnson's
12 house on Sunflower.

13 And the testimony will then later be that
14 Charlene Parker-Johnson tells the officers, when
15 they come and respond after the police have been
16 called, they can't enter her house. They enter her
17 house anyway. But she tells them that she doesn't
18 want them to enter her house. She tells the
19 officers that she doesn't know Jose Gomez, the guy
20 that was living at her house, that she picked up
21 Shauna Gutierrez and took her to go collect people
22 for. She tells the officers that she just woke up
23 and had to go to the potty, and is otherwise just
24 uncooperative, is the way the officer describes
25 Charlene Parker-Johnson.

1 But you're going to hear about this
2 beating, and one of the things that you're going to
3 hear is that all of the individuals who were
4 involved -- Shauna Gutierrez, Charlene Parker-
5 Johnson, Paul Rivera, Brandy Rodriguez, and Santos
6 Gonzalez - all had a personal reason. But one of
7 the things that I think is most interesting is that
8 the evidence is going to show that Shauna Gutierrez,
9 on August 3rd of 2016, when she was arrested, says,
10 "Joe didn't put a hit on him." She doesn't define
11 who it is, but she's talking about Jose Gomez. No,
12 they did what they did because she was drunk, "she"
13 being Brandy Rodriguez.

14 Shauna is going to say that she was upset
15 with Jose Gomez because his girlfriend, Hope, was
16 telling everybody that she was sleeping with Jose
17 Gomez when Joe Gallegos was incarcerated. That's a
18 personal reason there.

19 The Government is going to stand up here:
20 And the evidence shows that that's disrespect, and
21 an individual can't be disrespected.

22 I think, as part of your common sense,
23 you're going to be asked, and as jurors you can pull
24 from the evidence that there is hundreds, if not
25 hundreds of thousands of domestic violence cases in

1 the United States that occur because somebody is
2 concerned about being told that they're sleeping
3 with another individual, whether that's true or not.
4 And so the evidence is going to show it's a very
5 personal bias. Love, probably one of the strongest
6 motivators, aside from hate, which everybody
7 describes as the opposite side of that coin, is a
8 reason to do something.

9 "Don't testify against my jefe."

10 Brandy Rodriguez essentially is going to
11 be attributed to having made this statement, this
12 statement about, "Don't testify against my jefe."

13 You're going to hear testimony -- I don't
14 believe anybody is going to dispute that -- that
15 Brandy Rodriguez, when she was eight, moved in with
16 the Gallegos family. She's grown up always thinking
17 of Joe, who is only a couple years older than her,
18 as her father, her father figure, her mentor, and
19 somebody who has taken care of her. And so the
20 Government is going to ask you to make the jump
21 that, "Don't testify against my jefe," that's made
22 by Brandy Rodriguez, is going to be attributed back
23 to direction by Joe. It's a personal reason for an
24 individual who you'll see, and the evidence will
25 show, has all kinds of connections with Joe and the

1 rest of the family.

2 "Don't testify."

3 You're going to hear Paul Oso Rivera come
4 in and say, "That's what I told Jose Gomez when I
5 was hitting him with the metal stick. I told him,
6 'Don't testify.'" He doesn't -- and I don't think
7 will -- say anything more than that.

8 You're going to be asked to pull from the
9 evidence that doesn't exist that that statement
10 means: Don't testify about some other act in the
11 past that Paul Oso Rivera is not going to have any
12 knowledge. He's not going to know what happened.
13 The reason is, he's going to come in and tell you
14 himself, he's not close to Joe; he's not liked by
15 Joe. Along for the ride is probably the best way to
16 describe what Paul Rivera is that day.

17 But then there is, as I said, evidence,
18 personal, just personal issues happened that day,
19 like when Paul Oso Rivera asks Charlene
20 Parker-Johnson, in the middle of this assault, out
21 on a date. And you're not going to hear an
22 explanation in any of the evidence, I think, as to
23 why things like that happened. You're going to hear
24 that other people made statements that are very
25 personal reasons for doing something that day.

1 "Don't call me a child molester," is what
2 Santos Gonzalez is going to be said to have told
3 him. I don't know what that has to do with the
4 VICAR allegations, and the evidence isn't going to
5 clear that up for you.

6 "I know his whole family, you know, and
7 over the past couple of years me and him have been
8 beefing."

9 He knows his whole family because, as I
10 said -- and I kind of skipped that because I got
11 ahead of myself -- they've known each other and they
12 live around the corner from each other.

13 You're going to hear testimony that after
14 the March incident, Jose and Joe interacted. There
15 is going to be evidence showing that this is a very
16 small -- Los Chavez, a very small, close community
17 where everybody knows everybody, and it's best
18 described as everybody is in everybody's business.
19 And Jose and Joe are having issues, and Jose is
20 going to tell you what those are.

21 "I stole his ATVs. I stole his wave
22 runners. I stole his tools."

23 You saw the pictures of the house. It's a
24 different community than a lot of people live in,
25 but it's still a community. And you're going to

1 hear that Jose Gomez and Joe had an
2 on-again-off-again relationship.

3 And so the evidence is going to be
4 lacking, I think, to show you what you were told.

5 Lacking is also what's going to be missing
6 in the Adrian Burns matter. Evidence that's going
7 to be lacking is the evidence of disrespect.
8 Evidence that's going to be lacking is the
9 credibility that you're going to be drawing from
10 those. Because you'll hear a witness say that
11 Adrian Burns went to Joe's house before at 4 Erin
12 Court. It's not a first time. I think the evidence
13 is going to tell you it's not a common occurrence,
14 but there is a lot of difference between never and
15 what I think you're going to hear.

16 And that investigation is what's going to
17 be extremely important to look at, first, for the
18 first part, whether or not a murder occurred;
19 secondly, the evidence of whether there was any
20 intent to increase, maintain, or benefit the SNM
21 from that. And you're going to hear evidence from
22 these cooperators, regarding the 2001 case, about
23 what they do and how they handle it so that they
24 make sure that when something happens, people know
25 about it to send a message. All of that is going to

1 be lacking.

2 You're going to hear a lot about a Giant,
3 "Giant" being a Giant convenience store, not a Giant
4 fuel purchase. Some of these things, when you put
5 them on a slide, sound real good, and then all of a
6 sudden you read them later, and they sound a little
7 confusing.

8 But the Giant store fuel purchases made by
9 Andrew Gallegos. Because the state's theory is that
10 they went and convinced Adrian Burns to come over to
11 the house that night because they didn't have any
12 gas to go anywhere. And so they had to go get gas,
13 and then they had to use that gas later on. And
14 we'll cover those issues.

15 But so they made -- the state is going to
16 make a large issue out of gas cans.

17 THE COURT: Mr. Benjamin, are you about to
18 wrap up?

19 MR. BENJAMIN: Have I used that much time,
20 Your Honor?

21 THE COURT: Yeah.

22 MR. BENJAMIN: I will endeavor to do so.

23 There are multiple gas cans. But there is
24 a fire that occurs. You saw the car in the
25 Government's opening. You're going to hear about

1 the phone call that brings Adrian Burns over.
2 You're going to hear about the Allsup's. And you're
3 going to hear about Michael Sutton and Leroy
4 Gallegos. You're going to hear about these things.
5 But once again, they're not going to tell you that
6 they know what this is. You're going to be asked to
7 draw these things out, about the heroin that was
8 supposedly provided, about the cash that will be
9 described as a large amount, and probably for \$100.
10 You're going to hear that Amber Sutton first calls
11 the police the next day at 8:30 a.m.; that there's
12 photos taken of the scene at the bosque, trying to
13 prove who was there.

14 But the trucks that were seized don't
15 match those. The rifle that was found is ruled out
16 as having been involved. The other rifle, that
17 you're not going to see a picture of, is ruled out
18 as having been involved.

19 The jackets that were found burned were
20 never tested for gas, were never tested for DNA.
21 They were just -- there was a fire that we think
22 they're related to, and the evidence is not going to
23 show that these jackets are linked to that.

24 There is blood evidence that you're not
25 going to see was tested. Or if the Government does

1 present that evidence, you're going to see that it
2 doesn't match Adrian Burns.

3 But there are a lot of issues that were
4 pulled out of that.

5 And with the Court's indulgence, I think
6 if I could have five minutes, I would be done, Your
7 Honor.

8 You're going to hear again about Frank
9 Castillo and Mr. Garza, who are in two different
10 pods, Ocean pod and Paul pod, separate, locked. And
11 it's clear that both inmates had been strangled to
12 death. And what's less clear is how, when those
13 were put into place. But the inmates were locked in
14 their cells from 10:30 to 6:30 a.m.

15 And those pods -- the individuals in all
16 those pods were interviewed. And this is where the
17 investigation is extremely important and you need to
18 pay attention to, because the investigation failed
19 to identify by name, or any other means, who was
20 saying what. And all theories by the prison and,
21 later on, a different theory by the New Mexico State
22 Police, rested on the theory that these were SNM
23 murders.

24 And so ultimately they decided, and you'll
25 hear that they began looking at specific people,

1 after having provided benefits and suggesting and
2 people found that they could receive benefits.

3 This is a note that was found in Frank
4 Castillo's cell. You're not going to hear that
5 Sleepy, Boxer, Oso were involved in Frank Castillo's
6 murder.

7 Leonard Lujan. We'll come back to him
8 many times, probably many days of testimony, and
9 you're going to hear -- and I'm not going to play it
10 because, as you heard, I'm lacking time. But he's
11 going to say it was Mr. Castillo who did this.

12 And then you're going to hear it suggested
13 that it was, "Well, wasn't it Joe Gallegos?"

14 "Yeah, it was Joe Gallegos who was the one
15 that did that."

16 And that, you'll hear, is for the very
17 same reason like it had happened throughout the
18 course of these investigations. Individuals decided
19 that it was to their benefit to provide names and
20 provide information of people that they lived in
21 close proximity with for many years.

22 Angel DeLeon. He's the only one whose DNA
23 you're going to hear was found. He's also the only
24 one you'll never hear or see from.

25 Correctional officers. Correctional

1 Officers Garcia and Sandoval admitted that they lied
2 about seeing Frank Castillo moved during the
3 graveyard and early morning a.m. shift. That's
4 important, because how do they prove the
5 investigation and detail the investigation, when
6 their own correction officers are going to tell you
7 that they saw, what you'll hear is a term, proof of
8 flesh during the night, and there was or was not.

9 And lastly, you're going to see that the
10 evidence, the physical evidence -- because as Mr.
11 Castle told you, there's not -- was lost or
12 destroyed. There's vital evidence that was
13 overlooked, destroyed, or lost. You'll hear a lot
14 of testimony about that. The video of Frank
15 Castillo's cell was not preserved. Video cameras in
16 the pod and prison were not preserved. You'll hear
17 why those were important. Inmates in both victims'
18 pods were searched, photos taken multiple times, and
19 those weren't preserved.

20 And so we come to a long list of items.
21 But most of those items are the type of items that
22 an individual -- and this would be the defense
23 position. We'll show you that those logs are vital
24 to proving when and where; and that Joe Gallegos was
25 in the kitchen.

1 And those recorded phone calls, the diary
2 that had evidence, the 14-page report, and that the
3 DNA was allowed to degrade, are all things that will
4 show you that the Government's case is not what was
5 presented.

6 Thank you, ladies and gentlemen. And I
7 thank the Court for its indulgence.

8 THE COURT: Thank you, Mr. Benjamin.

9 Mr. Burke, do you have an opening
10 statement on behalf of Mr. Edward Troup?

11 MR. BURKE: I do, Your Honor.

12 THE COURT: Mr. Burke.

13 MR. BURKE: Thank you, Your Honor.

14 Ms. Harbour-Valdez. Mr. Troup. My
15 colleagues of the defense, both the accused and
16 those who are helping the accused. Honored
17 representatives of the Government.

18 If it please the Court.

19 THE COURT: Mr. Burke.

20 MR. BURKE: Ladies and gentlemen of the
21 jury, we did spend a few days exchanging
22 information, so I will give you only the briefest
23 information about myself. My passion in my life are
24 my four kids and my six grandchildren. The other
25 passion is the pursuit of justice, like so many

1 people in this courtroom.

2 A way to go about this for both the
3 defense and for you, members of the jury, is to see
4 if the Government rules out every reasonable doubt
5 in this case. Your oath would cover that. Our job
6 is to do that for you, to see if they rule out every
7 reasonable doubt.

8 And as mentioned, it's not like the
9 movies, it's not like TV. You'll never hear my
10 co-counsel or I say, "We're going to prove that
11 Edward Troup is innocent." It's not even about
12 right or wrong. It's about whether the Government
13 can rule out every reasonable doubt. Reasonable
14 doubts are those logical inferences that each of you
15 can draw from the evidence that is presented to you.

16 Members of the jury, this case is divided,
17 more or less, into two parts. Counts 1, 2, and 3
18 involve homicides in prison really quite a long time
19 ago, 2001 and 2007. And then you've heard about
20 counts that happened, what some people call the free
21 world. But each and every one of you must evaluate
22 and weigh the accusations against each defendant
23 independently and separately, and arrive at your
24 verdict in that manner.

25 Edward Troup is charged in Count 1 with a

1 2001 homicide, as well as Count 3, a 2007 homicide.
2 And the evidence, as to physical evidence, will be
3 sparse. You will hear evidence from informants.
4 Some of them will say what they believe they saw or
5 what they claim to have seen; others, what they
6 claim to have heard. Others will say they heard
7 Edward Troup say something.

8 But with respect to all the statements of
9 all of the informants, you will need to rule out
10 that they have not been honest with you in order to
11 arrive at your evaluation of whether this case has
12 been proven beyond a reasonable doubt.

13 Let me talk to you about Count 1, the
14 Pancho Castillo homicide. And let me say also, his
15 death is profoundly sad. The death of any of us
16 diminishes all of us, and it is a sadness that will
17 pervade the courtroom because it is the loss of
18 life.

19 The pieces of evidence that the Government
20 hopes to prove, to prove that Edward Troup was
21 involved, begins with: What did the Government
22 investigators do?

23 They found DNA. They found the DNA of
24 Angel DeLeon. But even that, even that DNA on the
25 weapon of death, was not enough for the Office of

1 Susana Martinez to rule out every reasonable doubt,
2 and charges were not brought even against Angel
3 DeLeon, as to whom there was DNA.

4 And then we jump forward to 2003, and a
5 person by the name of Lorenzo Torres comes forward.
6 And I will discuss him, because I believe he will be
7 a witness in this case.

8 And what does he say two years after the
9 fact of the Castillo homicide? He say, "I woke up
10 early that morning, and I saw Edward Troup seated on
11 the table on the second tier. And he said to me,
12 'Don't come up here, this doesn't concern you.'" I
13 believe that Mr. Torres will be a government
14 witness.

15 But what do you need to know about Mr.
16 Torres? You need to know that of all the inmates,
17 he is one of two who refused to give his DNA. You
18 need to know that at the time he was giving this
19 statement, two years after the fact, he declined to
20 cooperate originally; and now he's seeking a benefit
21 consistent with what will happen from the witness
22 stand throughout this trial.

23 You would need to know that the benefit
24 was bestowed upon him. He got help with his parole.
25 You would need to know that in 2012 he again became

1 an FBI informant, and he continues as an FBI
2 informant today. And you would need to know that he
3 has been paid \$650. And you would need to know that
4 he understands exactly why he received that payment.

5 In the Government's opening statement,
6 they put up on the screen three people who were
7 involved: Angel DeLeon, Joe Gallegos, Edward Troup.
8 And they touted the story of Leonard Lujan.

9 Ladies and gentlemen of the jury, when
10 Leonard Lujan first spoke in August of 2007, he
11 said, "I spoke to the three people from the pod who
12 were tasked with killing Castillo."

13 And who were the names that he gave them?
14 Angel DeLeon, Joe Gallegos, and Michael Criminal
15 Jaramillo. Not Edward Troup.

16 When Leonard Lujan spoke again in 2008, he
17 gave three names as those individuals tasked with
18 killing Castillo: Angel DeLeon, Joe Gallegos, and
19 Michael Jaramillo. His story about that has been
20 consistent for a decade. Until what? Until he made
21 his plea bargain. And then Edward Troup's name
22 comes forward, as if, ladies and gentlemen of the
23 jury, that sort of last-minute, eleventh-hour change
24 would rule out reasonable doubt.

25 And what is more remarkable about Count 1

1 -- and at some points, I need to be repetitious.

2 What's more remarkable is that in March of
3 2015, an experienced prosecutor said, "This letter
4 will serve as notification to you that the United
5 States Attorney's Office is declining prosecution of
6 Castillo and Garza homicides."

7 They were unable, after the marshaling of
8 all evidence, to rule out the reasonable doubts that
9 pervade this case.

10 Now I'm going to talk about Count 3.
11 Freddie Sanchez was killed on Saturday, June 16, and
12 his death is also profoundly sad. On that evening,
13 he and 12 other inmates were in the blue pod. Why
14 12? Because the 13th member of that pod had been
15 moved out two years earlier. Who is that? You will
16 hear from him, Ben Clark, the true shot caller in
17 this homicide.

18 The Government decided to indict five
19 people: Ben Clark, Arturo Garcia, Ruben Hernandez,
20 Javier Alonso, and Edward Troup. Ben Clark, a shot
21 caller, he left evidence behind, because he left a
22 letter incriminating himself, even though he was out
23 of the pod two days before the homicide.

24 Ruben Hernandez. He left evidence behind,
25 because his picture is on videos, showing that he is

1 covering the camera.

2 Javier Alonso, the killer. He left
3 evidence behind, his DNA. And you will see and you
4 will hear from Javier Alonso, and he will describe
5 for you how it was that he killed Fred Sanchez. Two
6 men were in Sanchez's cell, Fred Sanchez and another
7 individual. The Government claims it was Edward
8 Troup.

9 Javier Alonso goes to his cell; gets the
10 draw string from the laundry bag; walks into the
11 Sanchez cell; walks past the two men that are there,
12 including Mr. Sanchez. He gets up on the toilet.
13 Mr. Sanchez makes a fatal mistake. He turns around.
14 His back is to Alonso. Alonso jumps on him, leaps
15 into the air, gets the string out, and strangles
16 him.

17 I believe the forensic evidence will show
18 that within six to ten seconds, Mr. Sanchez would
19 have gone unconscious, and from that point on it was
20 a matter of minutes before Javier Alonso finished
21 his job of killing Fred Sanchez. But he left his
22 DNA behind. So his sacrifice of pleading guilty to
23 it is not a sacrifice at all. It is what he would
24 do to save his own skin and try to make something of
25 the best of it, having done all of this.

1 And what else did they do to fill in the
2 gaps? They call what is literally a murderers' row
3 of witnesses, and you've heard about some of that
4 from Mr. Castle. Styx Archuleta, Frederico Playboy
5 Munoz. Murderers, all of them.

6 It was mentioned: Why would some people
7 not become cooperators?

8 Could it be they're not good for it?
9 Would that be a reason that you insist on having the
10 Government rule out every reasonable doubt?

11 Members of the jury, what are the factors
12 that you would look to in determining the
13 credibility of the people that come before you and
14 take an oath and testify?

15 I think that you need to look at the
16 context of their testimony. Prison is a hard place.
17 They tell you when to eat, what to eat, when to get
18 up. And if you can get even the slightest little
19 bit of comfort, maybe you would do that if you know
20 that you're going to be in prison for a long time.
21 Even little considerations which would be next to
22 nothing to you and me, maybe they would mean a lot
23 to the individuals who will testify. Maybe that is
24 the mindset. That might be something that you would
25 look to, to determine their credibility.

1 What else would you look to? Would you
2 look to see if they were paid for their testimony?
3 Would you look to see if they were threatened at any
4 point to give testimony? Would you look to see if
5 they received promises for their testimony? Would
6 you look to see whether they had an opportunity to
7 compare their testimony, one with the other? Would
8 you look to see if they were able to have access to
9 discovery so that they could all read the police
10 reports and the other reports that comprise the
11 case? Would you look to see whether they had access
12 to each other so that they could match up their
13 stories, to get the benefits that have been promised
14 to them?

15 You need to look to all of those things to
16 determine whether every doubt has been ruled out.
17 And the thing about doubt is that you don't even
18 need to believe the doubt to have one. Another way
19 to look at reasonable doubt would be this analogy.
20 Let's say you or one of your loved ones had a lump
21 or some sort of blemish, and you're concerned that
22 it might be cancerous. And you go to the doctor,
23 and the doctor says, "99 percent of these are
24 nothing; don't worry about it."

25 And the person, the patient, your loved

1 one, you say, "No, is there something we can do to
2 rule that out?"

3 He says, "Absolutely. We could get an
4 MRI. We could do a CAT scan. We could do a
5 biopsy."

6 And the doctor says, "Upon reflection, we
7 should do that because we need to rule out that
8 something really bad could be coming onto your
9 body."

10 And that is like reasonable doubt here.
11 You need to rule out all doubt so that no mistakes
12 are made here. That's why it's called reasonable
13 doubt. And I have to say to you, even though we
14 talked about it so much, it is bedrock. It's what
15 we are all about. It is the most integral part of
16 American justice, that they need to rule out every
17 reasonable doubt.

18 And if one of you has a doubt and others
19 do not, your doubt counts. You can't be pressured
20 to disregard your doubt. You can't be on a jury
21 that leaves here thinking: Did I really do the
22 right thing? Did I ignore a doubt that I had?

23 Ladies and gentlemen of the jury, I think
24 the best way for you to do your job is to see if
25 they do their job, see if they really and truly rule

1 out every reasonable doubt. I believe at the
2 conclusion of this case, you will see rather readily
3 that they have not. And because they will not, at
4 the close of this case we will ask for verdicts of
5 not guilty for Edward Troup as to both Count 1 and
6 Count 3.

7 Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Castle -- I
9 mean, Mr. Burke.

10 All right. Mr. Granberg, do you have an
11 opening statement for Christopher Chavez?

12 MR. GRANBERG: Yes, Your Honor. Thank
13 you.

14 THE COURT: Mr. Granberg.

15 MR. GRANBERG: If I could have a moment,
16 Your Honor?

17 THE COURT: You may.

18 MR. GRANBERG: Mr. Chavez. Counsels.
19 Counsel for the Government. Your Honor.

20 THE COURT: Mr. Granberg.

21 MR. GRANBERG: Ladies and gentlemen of the
22 jury, my name is John Granberg, and I represent Mr.
23 Christopher Chavez. Mr. Chavez is accused of the
24 murder of Rolando Garza at the Southern New Mexico
25 Correctional Facility in 2001. That's a long time

1 ago. A lot of water has passed under that bridge.
2 You've heard presentations from Mr. Castle and Mr.
3 Burke about the other prosecutions that could have
4 occurred during that time, but I'll go ahead and
5 skip over those. I don't want to repeat them.

6 But I think it's particularly important
7 that you pay undivided attention to the facts and
8 testimony in this case. We have a multitude of
9 witnesses. We have a multitude of information. And
10 you're going to hear instructions from the Court,
11 saying you can apply this testimony to one person
12 and not the other. Or you can listen to that
13 testimony and find the testimony incredible,
14 uncredible, not credible, and not apply it at all.

15 You see, opening statements is like
16 putting together a puzzle. You go to the store and
17 you buy a puzzle, and it's in a box, and on the
18 front of the box is a picture of what the puzzle is
19 supposed to be. Now, the prosecution has painted a
20 picture for you what the puzzle that they anticipate
21 will be. But I submit to you that in this
22 particular case, this is a giant puzzle. This is a
23 complicated puzzle, and I submit to you that at the
24 end of this trial, the puzzle that you guys put
25 together is not the puzzle that's pictured on the

1 front of the box, not at all.

2 In Mr. Chavez's case, you're going to hear
3 about a lack of evidence; mainly, that for him,
4 there is no DNA found on either Mr. Garza or
5 Mr. Chavez, each other's DNA. There is no blood
6 exchange. There is no bodily fluids exchanged.
7 There is no FBI evidence, no hairs, no fibers from
8 their clothes, nothing like that. No fingernail
9 evidence, the cells under Mr. Garza's fingernails.
10 There are no palm prints. There are no footprints.
11 And there are also no shoe prints that related back
12 to Mr. Chavez. None.

13 Furthermore, you're going to find there is
14 no video surveillance documenting this. There is no
15 audio recordings that were made in the pod. There
16 is no video confession from Mr. Chavez. There is no
17 audio confession, meaning that there was no wire
18 that was surreptitiously placed on another cellmate
19 in which case Mr. Chavez confessed to the murders.
20 You don't have that, either.

21 Now, it's not like evidence was purposely
22 damaged or destroyed by anyone here. After the
23 bodies were discovered, the prison officials went
24 through. They stripped everybody down to their
25 underwear and had them wait in the gym for the

1 entire day. And during that day, prison officials
2 went through everybody's cell, collected all their
3 clothing, all their belongings, their toothpaste,
4 combs, their personal property like TVs, radios,
5 magazines. All that was taken up, bagged up, and
6 taken to the State Police.

7 Meanwhile, Mr. Garza's cell was given a
8 full forensic sweep. Now, if you recall from the
9 pictures from Mr. Castle's presentation, Mr. Garza
10 was found on his stomach. He had his shirt off. He
11 had his pants on. But additionally, he had several
12 abrasions on his body, and he had a deep laceration
13 right below his left elbow.

14 Now, I submit, though, if a struggle
15 occurred, Mr. Garza had his shirt off. There would
16 have been an exchange of cells. There would have
17 been an exchange of blood. There would have been an
18 exchange of fluids. None of that was found linking
19 Mr. Chavez.

20 Let me tell you about what the prison
21 officials did find. They found the murder weapon.
22 They found a drawstring taken from a laundry bag,
23 and at the end of the string, on each side, there
24 was a loop tied kind of like an S, but there was a
25 gap in the middle so you can put your arms through

1 it, your hands through it, and get a really good
2 grip on pulling on something.

3 But guess where that drawstring was found?
4 It was found in another person's cell, an inmate by
5 the name of Martin Chacon. Martin Chacon was never
6 charged in this indictment. There was,
7 additionally, a bloody T-shirt that was found in yet
8 another cellmate's cell. And guess what? He's not
9 charged either.

10 So let me talk about what the Government
11 does have. The Government has witnesses that have
12 evolved over the years, saying that Mr. Chavez said
13 this or said that to them. And Mr. Castle mentioned
14 Leonard Lujan and all his misdeeds. And I don't
15 want to repeat them, but there is one that I do want
16 to talk about, and that is in 2005, Leonard Lujan
17 gave a statement to prison officials, the gang
18 officers. And in his statement he gave a list of
19 who committed the murders. Mr. Chavez was not on
20 that list.

21 And then two years later, when the FBI is
22 putting some pressure on him to turn over some good
23 information, guess what happens? All of a sudden,
24 Mr. Lujan recalls an incident where Mr. Chavez told
25 him he did the murder. How convenient is that?

1 2005, Mr. Lujan says, "Yeah, these are the
2 five guys that did it."

3 2007, he turns around, "Oh, yeah, but I
4 forgot to tell you that Chris Chavez admitted it to
5 me."

6 There is another memo from a cellmate by
7 the name of Augustine Saenz. Mr. Saenz was a good
8 friend of the deceased, Rolando Garza, a long-time
9 childhood friend. And in Mr. Saenz's statement, he
10 says he saw what happened, he saw who did it. But
11 guess what? Mr. Chavez is not on that list.

12 One additional witness. Well, Eugene
13 Martinez is also a witness. Mr. Castle covered him.
14 I won't go into that.

15 But one additional witness came up just
16 recently, out of the blue, a person by the name of
17 Josh Mirka. Now, mind you, Mr. Chavez has been in
18 custody since December 2015, and in this time we've
19 had no reports of anyone approaching him or being in
20 the same area as him and him committing or
21 confessing to anything.

22 So all of a sudden, a month and a half
23 ago, we get this guy named Josh Mirka. Now, Mr.
24 Mirka was moved from Deming to Lordsburg because he
25 escaped from the facility in Deming. Somehow they

1 caught him, took him over to Lordsburg. Mr. Mirka
2 was in the cell next to Mr. Chavez. And then, all
3 of a sudden, Mr. Chavez starts talking about the
4 murder. Not just his murder. He implicates other
5 defendants, too.

6 And I find it very incredulous that after
7 a year-and-a-half, almost two years, more than two
8 years, that all of a sudden this informant will come
9 out of the blue. Now, this informant said other
10 things, such as Mr. Chavez said that he wanted to
11 escape, that he had plans to escape. But Mr. Mirka
12 is an escape artist. He's the one that escaped from
13 Deming, not Mr. Chavez.

14 All of a sudden, we have Mr. Mirka, I
15 submit to you, placing words in Mr. Chavez's mouth.

16 Now, all these witnesses are standing in
17 front of you, kind of like standing in a bread line,
18 for the Government -- for the Government to give
19 them some love, help reduce their sentences. But
20 every single one of them has a stake in this. Every
21 single one of them is not here to do their civic
22 duty. They would not be here if there was not some
23 incentive in it for them.

24 Now, ladies and gentlemen, Mr. Burke spoke
25 briefly about reasonable doubt, and I always equate

1 reasonable doubt to the decision-making process you
2 make when it comes to your health or the health of
3 your loved ones, the certainty that you need before
4 you make that decision. You want to know that what
5 you're doing in the course of treatment that you
6 choose to follow through with is the correct one,
7 especially with the most gravest concerns. You want
8 to know.

9 And if you have a doubt as to what your
10 physician is telling you, what do you do? You go
11 get a second opinion. You go to a secondary
12 hospital somewhere else, seek some specialist in the
13 field, because you need to know what you need to do
14 with your life. That is the amount of certainty
15 that the level of reasonable doubt rises to.

16 So, ladies and gentlemen, at the
17 conclusion of this trial, I would submit to you that
18 the puzzle that is before you is not the puzzle, not
19 the picture of the puzzle that the Government is
20 proposing they can prove. And those gaps in the
21 puzzle piece, in the puzzle, once you finish putting
22 it all together, would lead you to the conclusion
23 that Mr. Chavez did not commit these murders and
24 that the Government has failed to meet their burden.
25 Failed to meet their burden.

1 And just like I said during the voir dire,
2 with the Scottish law example, they find not guilty
3 two ways -- not guilty by innocence, I guess, and
4 not guilty because of not proven. And I submit to
5 you that at the end of this trial, the Government
6 will fail both.

7 Thank you.

8 THE COURT: Thank you, Mr. Granberg.

9 Mr. Blackburn, would you like to go now,
10 or do you want to do it after lunch? What would be
11 your preference?

12 MR. BLACKBURN: I'm starving, so I'd just
13 as soon it would be after.

14 THE COURT: All right. So we'll take up
15 your statement for Mr. Arturo Garcia after lunch.

16 All right. Since we're about to take our
17 first lunch break during the trial, I'm going to
18 remind you of a few things that are especially
19 important.

20 Until the trial is completed, you're not
21 to discuss the case with anyone, whether it's
22 members of your family, people involved in the
23 trial, or anyone else, and that includes your fellow
24 jurors. If anyone approaches and tries to discuss
25 the trial with you, please let me know about it

1 immediately. Also, you must not read or listen to
2 any news reports of the trial. Don't get on the
3 internet and do any research for purposes of this
4 case. And remember, you must not talk about
5 anything with any person involved in the trial, even
6 if it doesn't have anything to do with the trial.

7 If you need to speak with me, simply give
8 a note to one of the court security officers or Ms.
9 Bevel. I'm going to, like I said, be repeating
10 these while we get the trial started, but they'll
11 curtail off as we get going, but just keep them in
12 mind because they're very important.

13 So we'll try to shoot for an hour. We
14 can't start without you, so let's shoot for that so
15 we can get a good afternoon's worth of work in
16 today.

17 All rise.

18 (The jury left the courtroom.)

19 THE COURT: All right. If y'all want to
20 say anything to the jury when they come back about
21 Mr. Swantner, y'all might sketch out some words and
22 share with each other and see what you want to do.
23 If not, we'll keep moving.

24 MR. CASTLE: Your Honor, I had something
25 to bring up.

1 THE COURT: All right.

2 MR. CASTLE: In Mr. Granberg's opening
3 statement when he was addressing Mr. Mirka as a
4 witness, he indicated that Mr. Mirka said that
5 Mr. Chavez talked to Mr. Mirka, and then in that
6 statement he not only implicated himself but he
7 implicated other defendants. I think that's an
8 adequate quote. I think -- I'm hoping that was an
9 oversight by --

10 THE COURT: I don't plan to let that in.
11 I was reviewing the Mirka statements, and I don't
12 think that that's going to come in as any sort of
13 present sense. So for purposes of the trial, I'm
14 not going to allow that portion of the statement in.
15 About the only thing that Mirka can say is that
16 Chavez told him that he was Syndicato. That's it.
17 The rest of that statement I'm going to keep out.

18 If you want me to do anything about it, I
19 will.

20 MR. CASTLE: No, I don't want you to do
21 anything about it. I want to make clear on the
22 record.

23 THE COURT: Sure.

24 MR. CASTLE: We filed our motion. It
25 wasn't just directed to the Government being

1 prevented from doing it.

2 THE COURT: Okay.

3 MR. CASTLE: It was preventing that kind
4 of evidence from coming in at all.

5 THE COURT: All right.

6 MR. CASTLE: I want the Court to know that
7 it's considered opening the door. It isn't as to
8 Mr. Garcia. And that's all.

9 THE COURT: Well, I'm going to keep it
10 out. So if anything needs to be done, think about
11 it during the lunch hour. But that Mirka statement
12 is down to just Chavez saying he was Sindicato, and
13 that's it.

14 MR. CASTLE: Just so we don't have the
15 problem again, if any defendant is intending to
16 bring up a statement in which they say someone else
17 implicated my client, I'd ask that -- they didn't
18 mention Mr. Garcia, but if they're going to do that,
19 then I think they need to get permission from the
20 Court first.

21 THE COURT: Okay. Fair enough? Everybody
22 can do that?

23 I'll try to recirculate a chart here --
24 I'm still working on it -- on these statements
25 against interest. I know this was not one of the

1 ones the Government is trying to get in as a
2 statement against interest, but that little chart
3 that was giving the statements, that Mr. Castle had
4 brought to my attention.

5 So I'll give it to you. I'm still working
6 on it, but it should give you some guidance.

7 MR. SINDEL: Your Honor, what has the
8 Court decided concerning the civic responsibility of
9 Mr. Swantner? Is it going to be after lunch?

10 THE COURT: No. He's gone now.

11 MR. SINDEL: Oh, okay, then.

12 THE COURT: No, he's been excused. That
13 was what everybody wanted, right?

14 MR. SINDEL: Exactly.

15 THE COURT: So he's gone. What I was
16 saying is, if you want me to say anything to the
17 jurors or anybody, if the jurors -- think about it
18 over lunch. If you can sketch something out, share
19 it with the Government, or the Government with
20 y'all. If not, otherwise we'll just keep moving.

21 MR. BENJAMIN: Last issue, Your Honor.
22 Late yesterday afternoon, we got an unopposed motion
23 to unseal a case number.

24 THE COURT: I've signed it. Does anybody
25 disagree with it? Does anybody have an objection?

1 Any of the defendants? If not, Ms. Bevel will file
2 it.

3 MR. BENJAMIN: Thank you, Your Honor.

4 THE COURT: All right. See y'all in about
5 an hour.

6 (Lunch break.)

7 THE COURT: It looks like we're ready to
8 go. I'm going to tell the jury, through Ms. Bevel,
9 that they should maintain their seats. And they
10 have maintained them throughout the trial so far, so
11 our seating charts don't change. If at some point
12 we want to do something different, we can. But at
13 the present time, just maintain their seats.

14 Mr. Benjamin, I said I had signed your
15 order. It was in front of me. I've read it. And I
16 had half a signature on it. When I came back after
17 lunch, I handed it to Ms. Bevel.

18 MR. BENJAMIN: I appreciate it.

19 MR. SINDEL: Your Honor, there was some
20 concern from my colleagues that maybe the Court's
21 clock that has been used, that everybody's timeframe
22 is off. I don't know. I'm not suggesting that your
23 clock is off, but Mr. Benjamin believed that based
24 on his timer, he still had some time left.

25 THE COURT: Well --

1 MR. SINDEL: There's a bus here, and Mr.
2 Benjamin is now under it.

3 THE COURT: Well, when we came back, I
4 gave Mr. Castle 20 minutes. He didn't take all of
5 it, so he went to 10:50. Mr. Benjamin had said he
6 would give 20 minutes to Mr. Castle, so he had 25.
7 So 10:47 is when he started, and 25 minutes would
8 put him at 11:13.

9 MR. SINDEL: I think that's the
10 distinction. I think he believed he had an hour to
11 begin with. It's not the clock; it's our brains.

12 THE COURT: Well, we can look at the
13 transcript, but I was correctly corrected by Mr.
14 Castle on his. I'm not sure I went back and checked
15 Mr. Benjamin's, but we can.

16 MR. SINDEL: Your Honor, there is no need
17 to check the transcript.

18 THE COURT: All right.

19 MR. SINDEL: The toothpaste is out of the
20 tube.

21 THE COURT: All right. Everybody is
22 ready. Mr. Castle, I think -- and this will be for
23 you and Mr. Beck.

24 Go ahead and get them lined up.

25 I do want to get on Baby Rob Martinez's,

1 if I get the conviction, and the date of conviction
2 and the date of his release, so I know which way to
3 work with it under 609. And I think probably what
4 you were trying to do up here was make a 608
5 argument.

6 MR. CASTLE: Yes.

7 THE COURT: And I guess we've been looking
8 at it during the lunch hour on Salsberg. He
9 suggests you can go under 608 or you can go under
10 609, but you can't get your conviction in, name of
11 conviction, and then turn around and get the facts
12 in under 608. I have to think about that, whether
13 we agree with him, but there is some logic to that.

14 I thought maybe give you the choice, and
15 if you want to do 609, get the conviction in, get
16 the name of the conviction, fine. If you want to go
17 under 608, I can make a 608 call.

18 But give me that information so I know
19 whether I've got a 609 issue or if this is more of a
20 608.

21 MR. CASTLE: Our team is looking at it.

22 THE COURT: All rise.

23 (The jury entered the courtroom.)

24 THE COURT: All right. Everyone be
25 seated. I appreciate everybody getting in and out

1 very well for our first lunch. Everybody did a very
2 good job of getting back and being here and ready to
3 go on time. All right.

4 Mr. Blackburn, do you have an opening
5 statement on behalf of Mr. Arturo Garcia?

6 MR. BLACKBURN: Yes, I do, Your Honor.

7 THE COURT: Mr. Blackburn.

8 MR. BLACKBURN: Counsel. Counsel. May it
9 please the Court.

10 THE COURT: Mr. Blackburn.

11 MR. BLACKBURN: On December 14, 2015,
12 about 4:30 in the morning in Denver, Colorado,
13 Mr. Arturo Garcia was having coffee with his wife.
14 He had been out of custody for all the crimes that
15 he had been charged with; served his time; had a
16 job, on his way to work; was looking forward to
17 getting his first paycheck from the IRS ever. And a
18 group of gentlemen came in, in Denver, Colorado, and
19 arrested him, took him into custody, and showed him
20 a copy of an indictment, a federal indictment that
21 had been returned by a Grand Jury, charging him with
22 the murder of Freddie Sanchez.

23 Well, that was somewhat interesting to him
24 because, first of all, he couldn't remember that
25 much about a Freddie Sanchez in 2007, because it is

1 2015 when he's seeing these people at his front
2 door. He had never been charged with that
3 particular case, but later found out that the local
4 prosecutors had declined prosecution on anybody; had
5 never been interviewed by anybody from either law
6 enforcement or from the STIU, which is sort of the
7 inside-the-prison cop system, people you will hear
8 from that run what's called the STIU, the gang unit;
9 never had any other information or involvement in
10 what was going on with this.

11 And the most interesting thing was that
12 when he started thinking about it was -- the last
13 time that he had ever basically served any time in
14 the institution with Mr. Sanchez was in the late
15 1990s. Because, as you heard yesterday and earlier
16 today, the way the prison system works in New
17 Mexico, we have what's called Northern New Mexico
18 facilities and Southern New Mexico facilities. So
19 you have a group of buildings and institutions in
20 Santa Fe, and then there is others in Roswell, there
21 is others in Clayton, there are others in Santa
22 Rosa, and others in Southern New Mexico in Las
23 Cruces. I think Ms. Armijo talked about that this
24 morning. So what is known in the system is like
25 whether you're in PNM, which is Santa Fe, or whether

1 you're in Southern New Mexico, which is in Las
2 Cruces.

3 Well, the most troubling thing to him at
4 the time was that he knew, or later found out during
5 the discovery process, that Mr. Sanchez was killed
6 in June of 2007 in Southern New Mexico, in Las
7 Cruces, New Mexico, and he was in Santa Fe, had been
8 in Santa Fe since 2002, never been to Las Cruces.
9 More trouble factors.

10 So you will not hear any evidence, and the
11 Government has confirmed that you will not hear any
12 evidence in this particular case that at the time of
13 the murder of Mr. Freddie Sanchez in June of 2007,
14 that Arturo Garcia was in any -- was not even within
15 300, 400 miles of the facility, the Government's
16 theory being that because Mr. Arturo Garcia was a
17 member of the SNM Gang and that because they
18 thought he was a shot caller, that he ordered the
19 murder of Mr. Freddie Sanchez because he was
20 cooperating with law enforcement. That's their
21 theory.

22 You're not going to hear anything about
23 them wiring him up, or the guy in the next cell, to
24 find out what was going on. You're not going to see
25 any videotapes of him participating in any actions

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1 down in Southern New Mexico because he wasn't there.
2 You're not going to hear anybody say that in any way
3 he went in to some cell, that he had anything to do
4 with any strings or any knives or any pillowcases or
5 anything like that. Nothing.

6 The only thing you're going to hear is
7 from some cooperators, one in particular that I
8 won't elaborate on anymore because basically I feel
9 at this point in time, let's get the show on the
10 road.

11 You're going to hear from one of them, a
12 Ben Clark, who was at the facility in Las Cruces.
13 It's easier for me to say "Las Cruces" or "Santa Fe"
14 to keep them straight for my client, although a lot
15 of people will talk about the Southern New Mexico or
16 the Southern New Mexico Correctional Facility or the
17 PNM in northern New Mexico in Santa Fe.

18 But you're also going to hear testimony
19 that part of the issue with the SNM Gang, or some of
20 their rules are, as was discussed this morning, is
21 that you cannot be a member of a rival gang. You
22 cannot be involved in any situation that involves
23 any sort of child molestation. There's issues about
24 being -- whether you're homosexual or something like
25 that. And you cannot cooperate with law

1 enforcement. That's a part of all of the gang's --
2 the prison gang's supposed rules.

3 But at the same time, in this particular
4 case -- and you will hear from a lot of the
5 cooperators, a lot of the people who were in custody
6 and who were charged in this case initially. They
7 sat over here on this side of the room for a long
8 time -- well, not a long time; most of them for a
9 few months -- before they decided to cooperate.

10 Under the circumstances, if you knew or if
11 there was an issue out there that somebody knew that
12 you were a cooperator, nobody had to order a hit.
13 The Government's witnesses are going to come in here
14 and talk about that. You didn't have to -- if
15 somebody was labeled as a cooperator, no one had to
16 give an order if you were a member of the gang. In
17 fact, some people who were in the gangs would try
18 and move to the top of the ladder if they were to do
19 something on behalf of the gang.

20 And you're also going to hear that at the
21 time that Mr. Sanchez -- he was transferred to
22 Southern New Mexico. He was transferred. He didn't
23 come from anywhere in the location, or did not come
24 from any of the facilities that Mr. Arturo Garcia
25 was at, but he was taken down to Las Cruces two days

1 beforehand. Like I said, Mr. Garcia had not seen
2 him for a number of years before that. He knew who
3 he was. They're from the same area.

4 And when Mr. Sanchez got to the facility,
5 he told the correctional officers, two separate
6 correctional officers -- one, a regular correctional
7 officer; and two, a person involved with the STIU
8 prison cops -- that he was in fear for his life
9 because he knew he had a hit out on him. He knew
10 that himself. He knew the paperwork had already
11 been there for a while, a long time, because he had
12 cooperated.

13 And so he told these individuals, "You
14 need to move me. You need to put me -- don't put me
15 in this area, or don't put me in this area, because
16 if you do, I may not be alive."

17 Well, guess what? They didn't move him.
18 Two days later, the gentlemen who talked with him
19 came back. Much to their surprise, he hadn't been
20 moved, although a system was in place to move him,
21 but it didn't happen.

22 But one of the people that were there at
23 the facility, that just happened to be moved from
24 one pod to another pod, who was a shot caller, was
25 Ben Clark. He's the one who you heard from Ms.

1 Armijo this morning is going to say that he was --
2 he knew about the paperwork, or he was involved in
3 the paperwork, supposedly that came from Mr. Arturo
4 Garcia, transferred down, on somebody that already
5 had a hit on him.

6 Now, I'm not going to spend a lot of time
7 on what everybody else has talked about. We have
8 some of the most brilliant lawyers in the Southwest
9 region working on this case, and you've heard from
10 Mr. Castle and Mr. Burke and Mr. Benjamin, and I
11 can't remember who else -- oh, and Mr. Granberg --
12 this morning talk to you about all of these issues.

13 The one thing that I want to talk about
14 now is just the fact that we're only charged in one
15 count, Count 3. I'm not in Count 1, I'm not in
16 Count 2, I'm not in the other counts. This is the
17 only thing that is charged against Mr. Garcia. But
18 there is going to be a lot of cooperators who are
19 going to come in here and have something to say
20 about all of this group, not necessarily whether it
21 had to do with this particular murder, but maybe
22 things that had happened in the past.

23 But all of these cooperators have one
24 thing in common. They are there to protect
25 themselves and to get the most they can. A lot of

1 them are the actual killers. They are the people
2 who went in and they committed the killing. And
3 they're going to say that they did it.

4 Javier Alonso is going to say on Count 3
5 that he is the one who went in and strangled Mr.
6 Sanchez. And he gets the deal. He gets to be King
7 or Queen for the Day, whatever you want to be under
8 the circumstances.

9 These cooperators not only get money, but
10 they get other benefits. Because if you're already
11 in prison for 10, 15 years, what really good is
12 money going to help you, to a certain extent, except
13 if you want to put it on your commissary. But they
14 do get money. The Government gives them money.

15 What they also do, they give them the
16 second most important thing to them -- two things to
17 them. One is, you have a lot of time when you're in
18 custody, and your only connection to the outside
19 world is your ability to call your loved ones and to
20 be able to have conversations with them. So what do
21 they do? They put money on their account so that
22 they can have basically unlimited phone calls with
23 their families. That's a benefit. That is a big
24 benefit.

25 Now, the benefit to us, obviously, at this

1 point in time, we have the calls and we're able to
2 listen to the calls that these individuals make to
3 their loved ones; sometimes loved ones squared or
4 tripled, like the wife, the girlfriend, the second
5 girlfriend, the friend of the wife of the second
6 girlfriend, are who these conversations occur with.
7 And they tell these individuals what deals they
8 think they have with the Government.

9 "Oh, I just took a deal where I'm the one
10 who murdered this person. I admitted to it. I'm
11 going to testify against Mr. Troup and Mr. Garcia.
12 And even though they say I may get 20 years, I think
13 I will be home in the springtime" -- this is like in
14 the fall -- "in the springtime to help plant the
15 seeds for the yard."

16 And they keep talking about these deals
17 that have been made or what they've been promised.

18 Now, obviously they're trying to deflect
19 upon what they've done, but that is their message to
20 their loved ones, these benefits they're getting.
21 As you heard from Mr. Castle this morning, some of
22 them believe that they were going to get letters
23 that were going to be written on their behalf to the
24 Governor for commutations, the same Governor who did
25 not prosecute any of these cases when it was

1 delivered to her to prosecute. She declined
2 prosecution for obviously good reasons, as Mr.
3 Castle pointed out, that the U.S. Attorney's Office
4 declined prosecution. These people just aren't
5 credible.

6 And what is the other benefit that they
7 get? One of the other benefits they get is the
8 opportunity to have contact visits with their loved
9 ones, which is something that doesn't happen when
10 you are some of the individuals in this room,
11 because they have them in a level, what they call a
12 Level 6; minimal phone calls, visitations are not
13 contact visits.

14 But they were given this as another perk.
15 And although when we talk about benefits, you may
16 think it's only money, but it's not only money.
17 Money on your account to make phone calls, the
18 opportunity to have visits with your family is a big
19 deal, probably as much to some of these people as it
20 is to have money. Some people got a lot of money.
21 You'll hear that later.

22 But some of them lost their benefits
23 because they just had some issues as it relates to
24 having contact visits with their loved ones.
25 Because a few times, they took that a little bit too

1 far, and they got caught -- it was on tape -- with
2 their kids in the room. So they lost their
3 privileges. They were no longer allowed to
4 cooperate, except for now when they come in and
5 testify and tell you.

6 It's not like all of these cooperators,
7 since they've taken pleas in this case, have been on
8 their best behavior. They haven't.

9 During the course of this case, the
10 parties agreed to an opportunity to disclose
11 documents to each other, what we call discovery.
12 What you will hear -- you've heard Mr. Castle say
13 this and you've heard other people say this, this
14 morning. We talk about police reports or items that
15 are given to us from the Government. We talk about
16 discovery. That's discovery. A police report is
17 discovery. A DNA report is discovery. A tape
18 recording is discovery. The Government is required
19 to give us discovery. Discovery.

20 That's the first thing you learn as a
21 criminal defense attorney. Discovery. Give me the
22 discovery. Give it to me when you're supposed to
23 give me the discovery. But a lot of these -- so
24 even though a lot of these people cooperated, they
25 were allowed to continue to get the discovery. So

1 anytime the Government gave us documents that talked
2 about something that my client allegedly did, which
3 he didn't do, or anytime they gave any type of
4 discovery that related to any of these gentlemen
5 over here, not only did we get to see it, but it was
6 given to the cooperators; cooperators who are all
7 together in one particular facility on different
8 times.

9 So it's amazing how, you know, they've
10 given statements to the Government, because whenever
11 you decide they're going to cooperate, you've got to
12 come up and give like a statement. But it's amazing
13 how, as you go along, how all of those statements
14 continue to change. First of all, all of their
15 statements all seemed to come together, and
16 something that they have never, ever, ever mentioned
17 before, as all of these people pointed out this
18 morning, now they add facts.

19 Do you know why they add facts? Because
20 they have read. They know that they're going to get
21 a better deal. They know that they can do their
22 performance if they have more facts. So they
23 continued to get all the documents, like everybody
24 else.

25 Now, some of them were bad boys at a point

1 in time. They lost their privileges because they
2 were not supposed to do certain things with these
3 tablets, but they figured out how to. They're not
4 supposed to have any internet capabilities in it,
5 but they were able to figure out how to make those
6 tablets have internet capabilities, so that they
7 could do Google searches, so that they could send
8 emails to their loved ones, and so they could order
9 things.

10 But they had to fight over time as to how
11 they could get to the area to hook up to the Wi-Fi,
12 because they were using a hot spot from a Walmart
13 next to a facility in Sandoval County in Bernalillo.
14 So, you know, when everybody is fighting over the
15 same hot spot and somebody doesn't get their time,
16 then one of the cooperators cooperates against
17 another cooperator, to say that they're getting more
18 time than they are.

19 To the extent they found out -- and Mr.
20 Acee went out and interviewed them and found out
21 that they could send -- he stands outside, and they
22 send him emails. They take pictures of themselves
23 and send emails to Mr. Acee so that he could verify
24 that this was going on. So they lost their
25 privileges.

1 These are the people who are going to come
2 in here and testify. I don't need to go through all
3 the stuff that Mr. Castle put up here or Mr.
4 Granberg put up here about these individuals. You
5 will hear everything about these individuals.

6 The Government will not provide you with
7 any corroborating physical evidence as it relates to
8 the issue that Mr. Arturo Garcia is charged with in
9 Count 3. You will not get anything. You will not
10 get anything of that sort, nothing to wrap your
11 fingers around. Nobody is saying that he -- nobody
12 with a document is saying that that's what he did.
13 Testimony of cooperators; they're only what they
14 allegedly know, which is interesting because most
15 all of them had nothing to do with that count; or
16 they're all in Las Cruces, where he's not at.

17 This portion of the trial is known as
18 opening statements, and this is what all of us
19 expect the testimony to be because we have
20 discovery. But it wouldn't surprise me, ladies and
21 gentlemen of the jury, that we will hear things from
22 that witness stand -- even though they may been
23 interviewed two, three, four, or five times, some of
24 them within the last couple of weeks to make sure
25 they've got their testimony ready to go for this

1 trial -- something tells me we will hear something
2 new.

3 But what the parties say in opening
4 statements is not evidence. This is just a preview
5 of what we think will happen by looking at the
6 discovery. But you're not to take my word or what I
7 say this morning, or the word of the Government or
8 what they say in their opening statements as being
9 facts or proof. If it doesn't come from that
10 witness stand, if it's not something given to you
11 that says that the parties have agreed to get that
12 information, it doesn't count. Only the testimony
13 of the witnesses and what we provide to you.

14 And at the end of this case, we get to
15 come and argue the facts of this, what you have
16 heard.

17 And I can pretty much guarantee you that
18 what you're going to hear from me on closing
19 arguments is pretty much what you heard from me in
20 my opening statement. And based on that, I will ask
21 you to return a verdict of not guilty because the
22 Government will not be able to prove beyond a
23 reasonable doubt the acts that they have accused Mr.
24 Arturo Garcia of in Count 3 of this indictment as it
25 relates to Freddie Sanchez.

1 Thank you.

2 THE COURT: Thank you, Mr. Blackburn.

3 Mr. Roberts, do you have an opening
4 statement on behalf of Andrew Gallegos?

5 MR. ROBERTS: Yes, I do, Your Honor.

6 THE COURT: Mr. Roberts.

7 MR. ROBERTS: Thank you. May it please
8 the Court.

9 THE COURT: Mr. Roberts.

10 MR. ROBERTS: Members of the jury.
11 Families and member of the families of the victim
12 and of the defendants in this case. Good morning --
13 or good afternoon to everyone.

14 First of all, my name is Donovan Roberts.
15 I've been introduced before. With me is Lisa
16 Torracco, and we represent Mr. Andrew Gallegos. Mr.
17 Gallegos, can you stand just so everyone can see
18 you? Thank you. That screen back there is kind of
19 big, and it's kind of hard to see him.

20 Let me start off by saying someone died in
21 this count that he's charged with. Mr. Adrian Burns
22 died in November 2012. That's a serious thing. I
23 want to acknowledge our condolences to the family of
24 Adrian Burns. No one wants to see something like
25 that happen. It's a serious thing.

1 And Andrew Gallegos had known Adrian Burns
2 for a long time. He considered him a friend. Not
3 only did he consider him a friend, but to be honest,
4 Adrian Burns was his drug supplier. Andrew was an
5 addict. He was a heroin addict, and that's where he
6 got his supply from. You could almost say it was a
7 symbiotic relationship.

8 But Adrian Burns died a horrible, horrific
9 death, the kind of thing that no mother would want
10 to see or to deal with. And you will see some
11 terrible pictures of that. And, again, our
12 condolences to the family.

13 The family wants justice. We all want
14 justice. The police want justice. You're all here
15 as part of that pursuit. But as you listen to the
16 evidence, as has been said over and over, be sure
17 beyond a reasonable doubt that you have the right
18 person. Do not jump to conclusions, as I believe
19 the Government may have done in the case of Andrew
20 Gallegos. This morning you hardly heard anything
21 from the Government about Andrew because they have
22 hardly anything.

23 I want to give you sort of an analogy, a
24 little story to kind of give you an idea of what I
25 think or how I think this is going to play out for

1 Mr. Gallegos, Andrew Gallegos. I'll tell a little
2 story about a high school kid. He's a bit of a
3 troublemaker. He's been in trouble before. It's a
4 small school. The principal knows him quite well.
5 He's the kind of kid that loves to play pranks, the
6 kind of kid that gives the substitute teacher a hard
7 time. And he's often in the halls without a hall
8 pass. He's often missing classes. He doesn't have
9 the greatest grades in school.

10 And the principal knows him quite well.
11 Let's say he's very familiar with the principal's
12 office. Okay. He's out in the hallways when he's
13 not supposed to be. He hears the principal's voice
14 down the hall. He decides to duck into the bathroom
15 to get away from the principal. Little does he know
16 the principal is on his way to the bathroom because
17 there has been a report that he needs to go check
18 out.

19 When this kid goes into the bathroom, what
20 does he see? He sees all of the faucets turned.
21 The toilets have been stuffed. Water is flowing
22 out. The bathroom is flooded. And what does this
23 kid do? He doesn't want to get his new Jordans wet,
24 right? So he runs to the faucet, and he starts to
25 turn them off. He's turning them off.

1 Who walks in the door? The principal
2 walks in and sees him at the faucets, with all the
3 water overflowing. And what does he think?
4 Immediately, because of the circumstances -- and we
5 discussed that before in voir dire -- because of the
6 circumstances, he immediately believes this kid is
7 guilty. He did it. He's a troublemaker. He's
8 turned on the water. He's flooded the school.

9 But what does the principal really have in
10 that situation? And we talked about this.
11 Circumstantial evidence. There is no direct
12 evidence there. There is no video. There is no
13 eyewitnesses. There is no confession. There is
14 nothing but the circumstances that have led that
15 principal to believe that that kid did it.

16 And I submit to you that the evidence in
17 this case will be very similar to that,
18 circumstances that lead to believe -- lead police to
19 believe, just like the principal, that that kid is
20 guilty.

21 In many ways, Andrew is very much like
22 this kid. However, he has one advantage. Andrew
23 has one advantage, and that advantage is you, the
24 jury. It's us, the judicial system. Because unlike
25 that kid in that bathroom, Andrew has the

1 presumption of innocence, the right to remain
2 silent, the right to an attorney, and the right to
3 be proven guilty, or guilt beyond a reasonable
4 doubt.

5 And that's what you're here for today to
6 do, or for the next eight weeks. So as you listen
7 to all the evidence, keep an open mind and remember
8 your sworn duty, what you're sworn here to do.

9 Well, the Government has the burden of
10 proof, and Andrew has a right to remain silent. So
11 as I was told some time ago by a very distinguished
12 gentlemen here in the courtroom, we don't have to do
13 anything. We can sit right there and read the
14 newspaper for the duration of the trial, because
15 it's the Government that has the burden of proof.

16 Now, as I said, Andrew's situation is very
17 similar to that kid. His nickname is Smiley. He's
18 had that nickname actually since he was a kid, just
19 like I told you about my nickname. It's not a gang
20 name. It's a family name. It's a pet name. His
21 brother, who is also in this case and charged with
22 other counts, has no nicknames.

23 But Andrew, like that kid, he's got a
24 troubled past. He's been in trouble before. It's a
25 small town he lives in, Belen, Valencia County.

1 He's no stranger to the back of a police car. He's
2 a heroin addict, and we freely admit that -- or he
3 was at the time that this occurred. He's had
4 run-ins here and there that you might hear about.
5 And he's belonged to a street gang by the name of
6 The East Side Locos, which we also discussed a
7 little bit in voir dire.

8 But there will be no evidence that he's an
9 SNM member. There is no SNM tattoos. There is no
10 one talking about sending out orders to him. This
11 case does not involve, in terms of Andrew, does not
12 involve prisons and confidential informants and
13 snitches. In terms of Andrew, that really doesn't
14 exist.

15 What happened is, the police zeroed in on
16 Andrew, and Joe for that matter, because they were
17 possibly, potentially, the last person that
18 Mr. Adrian Burns saw. Why? Because they buy \$150
19 worth of heroin from him every day. Every single
20 day, they see him for that. And who kills your
21 dealer? It doesn't make any -- it's like going out
22 for a job before you get a second job. You wait
23 until you -- I mean, before you get another job.
24 You don't want to cut off that supply. You don't
25 want to cut off your money, your paycheck. Killing

1 your dealer doesn't even make any sense, when you
2 think about it.

3 So they zero in on him. He's the last
4 person that Mr. Burns possibly sees, and you'll hear
5 some testimony about that, referring to some phone
6 calls that were made that night, the night that
7 Adrian Burns was killed. And there will be some
8 discussion, as the prosecutor said, that they were
9 seen buying gasoline. So gasoline. Fire. They
10 link that together.

11 There will be circumstantial evidence
12 regarding them having some money or extra money.
13 They were being a little liberal with their money,
14 so they must have gotten it from Adrian Burns. They
15 were giving out drugs that night, so they think it
16 came from Adrian Burns. There is no direct evidence
17 to prove any of that. But there are circumstances
18 that led them to believe it must have been Andrew
19 Gallegos.

20 There are other possibilities and other
21 theories, but they didn't consider that. Because,
22 just like the principal, once he got the
23 circumstances that he saw that, he didn't look for
24 anything else. He zeroed in on that kid, and he
25 must be guilty.

1 You'll hear some evidence about some other
2 theories, that it's possible there are other people
3 that -- there was his -- Adrian Burns, his own drug
4 supplier that may have been involved in his murder
5 and you'll hear some testimony about that, that he
6 may have owed him some money; that Adrian Burns may
7 have owed his own supplier money.

8 You'll hear some evidence about crooked
9 police officers, police officers, narcotic officers
10 that were sort of rogue in the Valencia County area,
11 that didn't report, that didn't file reports, no one
12 knew where they were, really interesting stories
13 about them. But they didn't look in that direction.
14 They didn't investigate that. They just kept
15 focused on Andrew. You'll hear the handcuffs that
16 were on Adrian Burns, they were very similar to the
17 police handcuffs.

18 So there were clues that they could have
19 looked elsewhere to other people, but once they
20 zeroed in upon the circumstances, they didn't look
21 anywhere else, and they became focused on that, and
22 zeroed in.

23 Now, there will be talk also about Adrian
24 Burns -- I'm sorry -- Andrew Gallegos and Joe
25 Gallegos cleaning up. "We just pulled a movida."

1 And they need to clean up. Well, you'll see
2 pictures of their house, and believe me it's
3 anything -- it's far from cleaned. In terms of
4 cleaning up blood, it's far from cleaning up blood.
5 There will be over 30 samples, specks, drops of
6 blood throughout the house, throughout the car,
7 clothing.

8 But guess what? Not one drop of blood
9 matches Adrian Burns. Not one. If they were
10 cleaning up, they'd do a much better job than that,
11 to leave 30 drops of blood around.

12 You'll hear about ballistic evidence.
13 They found guns at Joe Gallegos' home. There is no
14 ballistic evidence that links those guns, those
15 bullets, fingerprints, anything that matches what
16 happened to Adrian Burns, nothing.

17 You'll also hear some things about Joe and
18 Andrew being on the run that particular night, and
19 so they must have done it. That's another one of
20 the circumstance that's being used here to pull them
21 into this conspiracy.

22 But let me tell you what really happened
23 that night, what I believe the evidence will support
24 happened. In order to continue their supply, to
25 keep their drugs going, what both Adrian and Joe did

1 is that they did what they call scrap metaling.
2 They would get scrap metal, and they would sell it,
3 \$150 a day. It's a lot of scrap metal you've got to
4 go through.

5 And sometimes -- and I've said it before;
6 they're no angels by a long shot -- they would steal
7 a vehicle or find a disabled vehicle, and they would
8 blow torch it; cut it up into pieces; take the metal
9 and sell it, and use it to pay their bills and to
10 buy their drugs.

11 And then that particular weekend they
12 scored big, because they got like a big ice cream
13 truck, you know, an ice cream truck that was
14 disabled somewhere. They found it, and they towed
15 it, and they cut to it pieces with a blow torch and
16 sold the metal.

17 And when they heard that the police were
18 looking for them, they didn't know it was about a
19 murder. They thought it was about the stolen
20 vehicle. And so they high-tailed up to Albuquerque
21 and got a motel room, hoping that things would blow
22 over and then they can go back home. It was not
23 until they got to the hotel room that they saw the
24 news that they were being looked for, for a murder.
25 And it was not very long after being in that room

1 that they were being arrested.

2 The point is, they weren't hiding
3 because of the murder. They did something they
4 shouldn't have done and were trying to get away
5 because of that. And like I said, there will be no
6 direct evidence that actually links them to this
7 murder.

8 Now, we've stated before in voir dire that
9 there has got to be a link between the murder and
10 SNM. And there is nothing that the Government will
11 be able to show you to support that. There is no
12 orders coming down from higher up. There is no
13 letters coming down. There is no kites. There's
14 nothing to show that.

15 And as I've said before, Andrew, he's been
16 involved in gangs, East Side Locos, as I said. He's
17 got an East Side Locos tattoo. There is no SNM
18 tattoo. There is nothing to link him, really, to
19 the SNM. And the East Side Locos, it's a street
20 gang. And in reality, they're no longer around.
21 They're sort of defunct. That was something he did
22 in his teenage years, probably in his 20s.

23 But he still claims East Side. It's like
24 being on a basketball team. You know, once you're a
25 Hoosier, you're always a Hoosier. Once you're a

1 Lobo, you're always is a Lobo.

2 But that gang really doesn't exist
3 anymore, and it didn't exist, I don't believe, in
4 2012 either. It certainly was not an SNM Gang.

5 So I just want to summarize and conclude
6 for you, because as my mother said, "Don't talk too
7 much." So I'm going to make it quick.

8 I'm going to summarize what I believe the
9 evidence in the case will show; or better yet, what
10 the evidence will not show.

11 There is no eyewitnesses at the home or at
12 the bosque where the body was found, allegedly the
13 shooting took place. They referred to the shot
14 first, then burned. There is no eyewitnesses in
15 either place.

16 There is no DNA evidence at the home or at
17 the bosque that either Adrian Burns was at the home
18 where he was allegedly shot, or that the Gallegos
19 brothers were in the bosque where his body was
20 found.

21 There is no evidence of Adrian Burns, as I
22 just said, anywhere -- on the property, on the
23 clothing, in the car. You saw pictures of blood in
24 the car, on the clothing. None of it matches Adrian
25 Burns' blood.

1 There is no DNA evidence anywhere that
2 matches up. There is no ballistic evidence matching
3 Gallegos. And there is a Stevens 15A rifle that was
4 found. Ballistics doesn't match that rifle. There
5 is also a Stevens 62 rifle that was found. Doesn't
6 match. No ballistic evidence there. There is no
7 ballistics -- there is no evidence of ballistic
8 evidence matching the ammunition that was found at
9 their home. There is no forensic evidence of blood,
10 brain spatter, gunpowder, soot, anything of that
11 nature.

12 There is no valid evidence of hiding a
13 weapon. You'll hear some testimony that they tried
14 to hide the weapon. Well, there were several
15 weapons found at the home. If they were trying to
16 hide weapons, it wouldn't be there. There wouldn't
17 be ammunition there. These guys had, you'll hear --
18 probably it would be illegal for them to have
19 weapons, so they would have really hidden them if
20 they needed to.

21 There is no valid evidence of a clean-up.
22 The place was a mess. And you'll see pictures.
23 There is blood everywhere. It's just not Adrian
24 Burns' blood. It's Andrew Gallegos' house, his
25 blood.

1 No corroborating evidence with
2 fingerprints anywhere, the house, the car, anywhere.
3 No footprints out at the bosque. They were walking
4 around out there. Nothing. No tire prints of their
5 cars being out there in the bosque where the body is
6 found.

7 No corroborating fibers linking the
8 Gallegos brothers to the location where the body was
9 found; and vice versa, similar in terms of the home,
10 of Adrian Burns being there. There is no dust, no
11 pollen, trace evidence, powder residue anywhere. No
12 corroborating burn marks.

13 There will be testimony about burns on
14 their clothing. Well, there is no evidence that it
15 was in any way associated with the burned body that
16 was found in the burned car. They talk about an
17 accelerant being used to burn the car and burn the
18 body. They had chemical testing to show whether
19 those burn marks come from gasoline. There is no
20 evidence of that. They can't prove that. They
21 can't show that. And some of that material was
22 tested, and it does not come back as being gasoline
23 related.

24 There is no motive to kill Adrian Burns.
25 It just doesn't make sense to kill your dealer.

1 This whole idea about Joe was being disrespected,
2 you don't kill somebody for that. You don't kill
3 your dealer for that. They weren't a family, but
4 they knew each other long enough. You get into
5 fights and spats and disagreements, but you don't
6 kill them, especially when you get your supply from
7 them on a daily basis.

8 There is no evidence of a plan or a
9 conspiracy of any kind to kill Adrian Burns, or
10 evidence that SNM was involved in any plan or
11 conspiracy to kill Adrian Burns.

12 There is no orders, as I just said,
13 basically letters, kites, phone calls, anything that
14 kind of indicates that they wanted him killed.

15 There is no taking credit for the murder.
16 As you've heard before, when the SNM commits a crime
17 or a murder, they want people to know about it.
18 They're not too unlike the Taliban or some of these
19 terrorist groups. They want people to know when
20 they do something, when they do something like a
21 hit. They want it out on the streets: You don't
22 mess with us.

23 There is nothing like that here. There is
24 no people going around bragging about it. There is
25 no taking credit for: Look what we did. Don't mess

1 with us.

2 There is none of that in this case against
3 my client, Andrew Gallegos.

4 There is no known benefit to SNM, no known
5 agreement between SNM and Andrew Gallegos, or with
6 the East Side Locos, either. In fact, there is just
7 no credible evidence that Andrew is a member the
8 SNM.

9 There is no evidence that Andrew has ever
10 claimed to be SNM. There is no cellphone evidence
11 for Joe Gallegos to link them to the murder or
12 Andrew. There is no evidence that Andrew went to
13 Bernardo, where the body was found. There is no
14 evidence that Andrew Gallegos -- I believe it's a
15 watch and keys. You're going to hear some evidence
16 they were tossed away by Andrew. There is no
17 evidence that those items existed. In fact, those
18 items were never even mentioned until the head agent
19 in this case brought that up, Mr. Acee.

20 So there is no evidence, as you can see,
21 of quite a few things. What you really have is that
22 kid in the bathroom, the troubled kid who is at the
23 sink. Circumstances. That's what you're going to
24 see here. That's what you're going to hear. Very
25 little direct evidence that my client, Andrew

1 Gallegos, had anything to do with this murder. And
2 I believe that when it's all said and done, and when
3 you weigh all of this, that you will be unable to
4 come up with proof beyond a reasonable doubt, and
5 the only thing that you will be left with is a
6 verdict of not guilty.

7 Thank you.

8 THE COURT: Thank you, Mr. Roberts.

9 Mr. Shattuck, do you have an opening
10 statement for Mr. Allen Patterson?

11 MR. SHATTUCK: If I may, Your Honor.

12 THE COURT: Mr. Shattuck.

13 MR. SHATTUCK: May it please the Court.

14 THE COURT: Mr. Shattuck.

15 MR. SHATTUCK: Counsel. Friends.

16 Government witnesses -- Government attorneys.

17 Ladies and gentlemen of the jury.

18 This is the first time you've seen me. My
19 name is Joe Shattuck. I'm the old guy that they
20 keep in the back most of the time. I was almost
21 retired. Jeff Lahann called me and he said, "Would
22 you be interested in helping me and working on a
23 case with me?" And I said, "No, man. I'm old. I'm
24 retired." He said, "Look at the evidence. I
25 represent a guy named Allen Patterson, and we'd like

1 to have you with us." I said, "No. I'm old. I'm
2 retired."

3 And I looked at the evidence.

4 "Who the fuck is Allen Patterson?"

5 Gerald Styx Archuleta said that when they
6 first talked about the murders in 2001 at Southern
7 New Mexico Correctional Facility.

8 "What's going on in that cell block? Why
9 would they use somebody that we don't even know?
10 I've never heard of Allen Patterson."

11 That's what Benjamin Clark said.

12 Those guys had the keys. They were
13 driving the car for SNM at the time that these
14 murders took place. They had never heard of Allen
15 Patterson.

16 You've heard over and over and over how
17 people in the penitentiary, Department of
18 Corrections of New Mexico, did what they were told
19 by the shot callers, by the drivers of the car.
20 You've also heard, or will hear, that if you're a
21 crossover gang member, your life's gone. If you try
22 to mess with SNM, your life is gone. If you try to
23 whittle your way into SNM, your life is gone.

24 You've heard that there are people that
25 aren't validated, and there is no way that the

1 Government can ever claim Allen is a validated
2 member of SNM, and here's why. He has no tattoos.
3 One of the state's key witnesses will describe him
4 as a loner. He didn't even talk to people in the
5 cell blocks, kept to himself.

6 Not everybody in the cell block was SNM.
7 And one of the things that you must remember is,
8 nobody gets to choose where you live in the
9 Department of Corrections. They put you where they
10 want. And if they put you in a place where there
11 are members of SNM, the people that you talk to, if
12 you're going to talk to anybody, are members of SNM,
13 or affiliates of SNM, or people you know on the
14 streets who are now SNM.

15 When you're walking in the yard, you
16 either stay by yourself or you talk to the people
17 that are in the yard. You don't choose who goes to
18 the yard with you. You go to the yard, and people
19 come. And you walk along and you see somebody from
20 Silver City, where Allen is from, and you say, "Oh,
21 I'll walk with you and we'll talk."

22 That doesn't make you a member or an
23 affiliate or a friend of any kind of an
24 organization. It makes you somebody who is in a
25 penitentiary, who did something wrong, who is

1 walking around in the penitentiary with somebody
2 from your hometown who also did something wrong.

3 You know, you've been told that people
4 from SNM, you go on the streets, you're in the
5 joint, you do what you're supposed to do with your
6 friends. You make your bones or you do the work, as
7 they call it. And then when you get on the streets,
8 you keep your bones. You do things that you're
9 supposed to do. You attack drug dealers. You
10 attack members of other gangs. You rob places. You
11 steal things. You deal drugs. You transfer drugs.
12 You take drugs to the pen.

13 Allen Patterson got out of the pen in
14 2002. He was supposed to get out in 2002. These
15 murders took place. Allen became a suspect
16 primarily because of an injury to his knee, and he
17 became a suspect and he was locked down, and they
18 never took away his good time. One of the things
19 that's the most important thing you'll learn about
20 being in the penitentiary is good time. You get
21 good time. That's how you get out. You get out in
22 half the time. You get day-for-day good time, by
23 statute.

24 Allen never lost any good time. He got
25 out when he was supposed to get out. And from 2002

1 until 2015, he wasn't attacking drug dealers. He
2 wasn't doing things for other people on the streets.
3 He wasn't pushing people around. He was taking care
4 of his family. He was working. He was loving his
5 wife and his kids and his grandkids. And in 2015,
6 he was arrested at 5:00 in the morning.

7 And I noticed on the grid that the
8 Government put up, where they had the pictures of
9 all the guys and everything, Allen looks disheveled
10 and shocked and shook up. There are lots of
11 pictures they could have used, but that's the worst
12 they've got of him, and that's because you're
13 supposed to think poorly of him because of that
14 photograph and because he's on their grid.

15 Ladies and gentlemen, I'm going to give
16 you just a little example of how this prosecution
17 works. In about 2011 or so, maybe even a little bit
18 later, one of the cooperators -- it was either
19 Lucero or Lujan, one of the guys that you've heard
20 about. You know who they are. One of them told an
21 FBI agent that the people who killed Mr. Garza
22 were -- let me rephrase that.

23 He heard from Eugene Martinez that some
24 people who killed Mr. Garza were Eugene Martinez and
25 Archie Mauricio, also known as Hog Nuts, Varela.

1 Okay? Well, then, a couple months ago, when Mr. --
2 I think it was Mr. Lujan was giving -- he was sort
3 of doing a follow-up statement with one of the FBI
4 agents, and they said to him, "Well, you know, when
5 you told the other FBI agent that it was Archie
6 Varela, I think he made a mistake when he wrote it
7 down, because Archie wasn't in there. So who do you
8 think it was?"

9 "Oh, I said it was Allen Patterson."

10 I want you to use your heads. You've got
11 a trained FBI agent writing down what he's being
12 told by Lujan that Eugene Martinez said, and you say
13 to him, "It was Allen Patterson," and he writes down
14 "Mauricio Archie, also known as Hot Nuts Varela" by
15 mistake?

16 No, folks. There's some shenanigans going
17 on. Don't let it happen. Don't believe it.

18 Allen Patterson never was a member of SNM.
19 He can't be. They tried to validate him as a member
20 of SNM, but in 2001, on March the 7th, there was a
21 meeting between an FBI agent, the head of STIU, and
22 one of the deputy wardens at Southern New Mexico,
23 and they put together a list of everybody who was in
24 a gang. Now, I told you March the 7th, 2001. March
25 the 7th, 2001, was two weeks before this murder took

1 place. And on that list, there is no Allen
2 Patterson.

3 In 2003, there is another list of members
4 of SNM. Allen Patterson's name is not on there. In
5 2005, there is another list of SNM members, and
6 Allen Patterson is not on there.

7 Allen Patterson is not a member of SNM.
8 Never has been. No tattoos, nothing close. He was
9 a member of what they call the China Town Locos in
10 Silver City, but never SNM. And he matured out of
11 being a member of the China Town Locos.

12 Since 2002 until he was arrested in this
13 case, he had one incident with the law, and that was
14 a traffic ticket.

15 Listen to the evidence, ladies and
16 gentlemen. You know, the Government this morning
17 said that one of the things that is most important
18 about SNM is that they lack morality. Part of that
19 lack of morality, ladies and gentlemen, you're going
20 to see from that stand. You're going to see people
21 who have been trained to testify come in here and
22 look you in the eye and talk to you about squeezing
23 the life out of their best friends, watching the
24 light go out in their eyes, like they're talking
25 about scratching their nose, because they know they

1 can't be in trouble, and they're trying to get these
2 guys in trouble. They want to cover themselves at
3 these gentlemen's expense.

4 And one of the things I noticed this
5 morning when Ms. Armijo was doing her opening
6 statement, she said that, you know, leaving the old
7 lifestyle is kind of hard because some of these
8 guys, they got out and they become cooperators, and
9 even since they've become cooperators, they've had
10 porn on their tablets and they've had sex in front
11 of their kids, and they've done drugs, and they've
12 committed other crimes on the street, and all that.
13 Leaving a lifestyle is difficult.

14 There is going to be not one shred of
15 evidence in this case that Allen Patterson ever had
16 that lifestyle or that, as a member of a gang, he
17 couldn't leave that lifestyle. He went to prison.
18 He got out of prison. He was able to leave that
19 lifestyle behind. He was living his life in Silver
20 City, New Mexico, working and caring for people.

21 Now, you've heard that there were several
22 things that they had to try to pin people down.
23 They wired agents, undercover agents. You saw the
24 list. I'm going to try to go through it without
25 belaboring it. They wired undercover agents who

1 went in and talked to people, and people said
2 things, people who are going to testify, who were
3 caught because of some of the things they said.

4 No Allen Patterson. They have video
5 recordings of people doing things. Most of them are
6 video recordings of the cooperators. No Allen
7 Patterson. They had controlled buys, controlled
8 buys like when you -- say you're a police officer
9 and you want to buy drugs from somebody. You
10 wouldn't send me in to get it because they'll figure
11 out you're a cop. So you check me for money, then
12 you give me money, and I go in and give them the
13 money, and I come out with drugs. And that's a
14 controlled buy. No Allen Patterson.

15 Cellphone conversations from the
16 penitentiary. No Allen Patterson. They have tape
17 recordings of people talking. No Allen Patterson.
18 And they have wiretaps on all of these people. And
19 the only thing that you're going to hear on the
20 wiretaps of Allen Patterson's phone in Silver City
21 is how much he loves his family, and how worried
22 they are that he's been in prison since 2015,
23 waiting for this day.

24 No confession, no threats, no promises
25 that he's done something. Nothing.

1 "Allen Patterson. Oh, I mean Archie
2 Varela. Oh, I mean Allen Patterson. That's really
3 close."

4 Listen for solid evidence, not evidence
5 that's made up, not evidence that's sketchy. The
6 evidence against Allen Patterson is almost
7 nonexistent. There are people who lived in a cell
8 block, who are going to come in and say that Allen
9 Patterson participated.

10 They're also going to say that Allen
11 Patterson talked to them afterwards and told them,
12 "You better not say anything about me." They never
13 saw him again. Allen left the cell block, was put
14 on lockdown, and then transferred to Santa Fe. He
15 never went back. He never saw those people again.
16 He couldn't have said, "Be careful. Don't say
17 nothing about me."

18 Other people might have said that. Eugene
19 Martinez, I think, said it and bragged about it.
20 But not Mr. Patterson. He couldn't have. They
21 couldn't have heard it from him because he was not
22 there with them.

23 I can stand here all day talking about it,
24 what they don't have, but I'm not going to. I've
25 talked about it enough. Remember, we talked about

1 lunch. The state can't prove -- I'm sorry. The
2 Federal Government can't prove Allen ate pasta, they
3 can't prove he ate meatballs, and they dang sure
4 can't prove he had a bowl of it.

5 When this trial is over, when you've heard
6 all the evidence, you're going to say, "Who the fuck
7 is Allen Patterson?" Because they can't prove who
8 he is or that he had anything to do with this.

9 Thank you.

10 THE COURT: Thank you, Mr. Shattuck.

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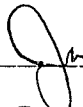
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 5th day of May, 2018.

13
14 
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